



Finance Committee Agenda

August 29, 2016

8:00 AM

Board Conference Room, 1st Floor, City Hall

1. Call to Order

2. Financial Updates

3. Consent Items

- A. Approve the minutes from the August 8, 2016, meeting
- B. Approve the Semi-Annual Financial Report for the first half of 2016 and direct City Administration to publish (Administration)
- C. Declare the 1997 Jeep Cherokee as surplus equipment and auction it through KCI Auto Auction (Police)
- D. Approve a construction agreement with Twin Traffic Marking Corp. for the 2016 Pavement Marking Program (Public Works)
- E. Approve an increase in expenditure authority for Cunningham, Vogel & Rost, P.C. for special legal counsel services related to telecommunications and cell phone towers (Administration)

4. Action Items

- A. Amend the professional services agreement with the Platte County Citizen for newsletter creation, publishing and mailing services (Administration)
- B. Approve the selection of Nationwide Payment Solutions/Municipay to provide credit and debit card processing for City Hall and the Parkville Municipal Court (Administration)
- C. Approve a professional services agreement with TekCollect for a pilot project to collect delinquent account balances owed by sewer customers (Administration)
- D. Approve Work Authorization No. 1 with Arbor Masters for tree trimming in the Parkville Nature Sanctuary and Sullivan Nature Sanctuary (Public Works)
- E. Items related to the English Landing Restroom Rehabilitation (Public Works)
 - 1. Approve a construction agreement with Across the Board Contracting, LLC for carpentry work
 - 2. Approve a construction agreement with Full Nelson Plumbing, Inc. for plumbing work
 - 3. Approve a construction agreement with Action Concrete Const. for site construction work
- F. Approve Work Authorization No. 62 with North Hills Engineering for evaluation and mapping of the City's sanitary sewer system (Public Works)
- G. Approve a work authorization with Blue Valley Laboratories for the repair of the aerator in the Parkville Athletic Complex retention pond (Public Works)

5. Non-Action Items

- A. Quarterly Projects Update
- B. NID Financing Strategy and 2017 Budget Preview (Administration)

- 6. Unfinished Business (postponed from prior meetings)**
- 7. Other Business**
- 8. Adjourn**



Finance Committee Meeting
August 8, 2016 – 8:00 a.m.
Executive Chambers – Board Room

Minutes

1. CALL TO ORDER

Chair Sportsman called the meeting to order at 8:03 a.m. A quorum was present.

- **Members Present:** Chair Marc Sportsman, Nan Johnston, Diane Driver and Robert Lock
- **Other Aldermen Present:** Jim Werner
- **City Staff Present:** City Administrator Lauren Palmer, Community Development Director Stephen Lachky, Finance/Human Resources Director Matthew Chapman, Police Captain Jon Jordan, City Treasurer Steve Berg, Assistant to the City Administrator Tim Blakeslee and City Clerk Melissa McChesney
- **Others Present:** Jay Norco, North Hills Engineering

2. FINANCIAL UPDATES

3. CONSENT ITEMS

- A. Approve the minutes from the July 25, 2016 meeting
- B. Authorize the transfer of funds from the Emergency Reserve Fund to the Brink Meyer Debt Service Fund sufficient to cover the payment of bond interest and fees due on September 1, 2016
- C. Approve a construction agreement with Foley Company for the clarifier floor replacement at the Wastewater Treatment Facility

Diane Driver moved to approve the consent agenda as presented. Nan Johnston seconded; motion passed 4-0.

4. ACTION ITEMS

- A. Approve the 2016 property tax levy for Fiscal Year 2017

City Treasurer Steve Berg stated that staff received the annual pro forma calculations from the Missouri Auditor in August to continue or decrease the current general temp levy rate and noted that the City had the option to increase the temp levy in even-numbered years. The valuations increased substantially over the past year and the general property tax increased by approximately \$28,000. Berg presented two proposals for the general temp levy which included a slightly reduced level or an increase assuming that all assessments on the neighborhood improvement districts (NID) remained the same. He added that the City would be drawing down the Emergency Reserve fund over the next eight years to cover the NID assessments.

Berg explained that an increase in the temp levy would reduce the amount of the total tax levy. The impact to a homeowner with a home value of \$210,000 would be under two dollars.

City Administrator Lauren Palmer recommended increasing the temp levy which would reduce the total tax levy in 2017. The temp levy would need to be renewed in 2025 when it expired. Palmer added that the increase would return the temp levy to the same level it was in 2012.

Driver moved to recommend that the Board of Aldermen adopt an ordinance to set the 2016 General Tax Levy at \$0.4701 per \$100.00 of assessed valuation and the General-Temp Levy at \$0.1777 per \$100.00 of assessed valuation. Robert Lock seconded; motion passed 4-0.

- B. Provide direction regarding improvements to the Route 9 downtown markers

City Administrator Lauren Palmer explained that at the July 25 meeting the Finance Committee discussed options to approve the appearance of the lettering on the stone pillars at the entrance to downtown Parkville. The Committee recommended Option 3 contingent on the receipt of additional money from the donors to cover the cost. Palmer said she approached each of the five donors and there was not a good indication of support so she requested additional direction from the Committee.

Palmer asked for direction regarding other options that would be supported if the donor funding did not come through. She noted that Public Works Director Alysén Abel was approached by Alliance Water Resources who said they would be willing to donate money. Palmer also sought direction on whether or not the City would accept donations from a vendor contracted by the City or other groups who were not part of the five original donors. Palmer said she would contact the donors to verify black lettering was acceptable for the markers.

Driver moved to authorize the City Administrator to amend Change Order No. 1 with Gunter Construction for the option 1 improvements to the Route 9 downtown markers in the amount of \$1,466 pending approval from each of the donors. Lock seconded; motion passed 4-0.

C. Approve the purchase of a new 2016 Ford Focus SE sedan from Shawnee Mission Ford to be used as be used as a Community Development Department and citywide vehicle

Community Development Director Stephen Lachky explained that the City's Ford Taurus, used for Community Development and as a general staff vehicle, had some maintenance issues and needed to be replaced. In order to receive a wider range of vehicle options, the bid document included generic specifications instead of specific that had been used in the past. Staff sent an e-mail to the vendors who were contacted in 2015 for the purchase of the Ford Escape for Community Development. A bid opening was held in July and only one bid was received but it was invalid because it was received after the deadline. Lachky noted that staff reviewed the Kansas City Regional Cooperative Purchasing Cooperative and statewide purchasing contracts and determined the low bid was from Shawnee Mission Ford. The remaining budget would be used for optional additions, which staff determined should include weather-tech floor mats, rust proof undercoating and a cold weather package. Staff recommended the purchase of a 2016 Ford Focus with the additional features.

The Committee debated whether it preferred to use a Missouri vendor instead of an out-of-state vendor. Because the cost was similar the consensus was to purchase from the Missouri vendor, which was Joe Machens Ford.

Driver moved to recommend that the Board of Aldermen approve the purchase of a new 2016 Ford Focus SE sedan Joe Machens Ford in the amount of \$15,689 plus \$1,489 for additional features for a total amount of \$16,724 plus the delivery fee unless staff could negotiate its removal; and declare the 2004 Ford Taurus as surplus and eligible for auction upon execution of the purchase order. Lock seconded; motion passed 4-0.

D. Approve a work authorization with Mid-America Pump for the mixer repair at the Wastewater Treatment Facility

City Engineer Jay Norco stated that the mixer was seven years old and would require disassembly. He added that the amount requested was not guaranteed and staff could authorize additional funds if the cost did not exceed \$2,500. The building maintenance budget did not have any remaining funds available to cover the cost but savings from the replacement of the clarifier floor could cover the expense.

Driver moved to approve a work authorization with Mid-America Pump for the mixer repair at the Wastewater Treatment Facility in the estimated amount of \$5,933.96. Lock seconded; motion passed 4-0.

5. NON-ACTION ITEMS

6. OTHER BUSINESS

7. ADJOURNMENT

Chair Sportsman declared the meeting adjourned at 8:44 a.m.

Submitted by:

Melissa McChesney
City Clerk

Approval Date

CITY OF PARKVILLE Policy Report

Date: Friday, August 19, 2016

Prepared By:

Matthew Chapman
Finance/Human Resources Director

Reviewed By:

Steve Berg
City Treasurer

ISSUE:

Approve the Semi-Annual Financial Report for the first half of 2016 and direct City Administration to publish.

BACKGROUND:

Both state statute and city ordinance require the City Treasurer to produce a semi-annual financial report that summarizes revenues and expenses for a six-month period. The last report was produced in February for the second half of 2015. The semi-annual report for the first half of 2016 is ready for review and publication in a local newspaper as required by law. To reduce publication costs, an abbreviated version of the report will be published in the newspaper, but it will direct readers to the City's website for additional information. The City Treasurer has prepared an expanded version of the report for the website that includes additional information.

BUDGET IMPACT:

There is no budget impact associated with this action other than the cost of publication which will be funded from the Administration Division (501) of the General Fund (10).

ALTERNATIVES:

1. Approve the Semi-Annual Financial Report for the first half of 2016 and direct City Administration to publish.
2. Do not approve the report and provide further direction to staff.
3. Postpone the item.

STAFF RECOMMENDATION:

Approve the Semi-Annual Financial Report for the first half of 2016 and direct City Administration to publish.

POLICY:

Section 130.090 of the Parkville Municipal Code requires the City Treasurer to furnish to the Board of Aldermen a semi-annual report in January and July each year of the amount of money received on account of the City during the half year, from what sources received, and the amount of money disbursed, and on what account, and the balance in his hands to the credit of the City. Section 105.130 of the Parkville Municipal Code requires the Board of Aldermen to publish the semi-annual report in some newspaper in the City. The sections of Code that require the production and publication of a six-month report are based on corresponding sections of Missouri statutes (RSMo 79.160 and 79.165).

SUGGESTED MOTION:

I move to recommend that the Board of Aldermen approve the Semi-Annual Financial Report for the first half of 2016 and direct City Administration to publish.

ATTACHMENTS:

1. Semi-Annual Report – 1st Half of 2016 (publication version)
 2. Semi-Annual Report – 1st Half of 2016 (full version)
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City of Parkville, Missouri

Semi-Annual Report

January 1 through June 30, 2016

General Fund

Revenue	2,531,366
Expenditures	1,931,262
Revenue, net of Expenditures	<u>600,103</u>

Enterprise Fund-Sewer Utility

Revenue	507,456
Expenditures	595,884
Revenue, net of Expenditures	<u>(88,428)</u>

Debt Service Funds

Revenue	991,906
Expenditures	470,563
Revenue, net of Expenditures	<u>521,343</u>

Special Revenue Funds

Revenue	844,565
Expenditures	807,243
Revenue, net of Expenditures	<u>37,322</u>

Debt of City of Parkville, June 30, 2016

Certificates of Participation	3,383,722
Sewer Utility	1,310,000
Neighborhood Improvement Districts (NIDs)	10,250,000
Total Debt	<u>14,943,722</u>

For additional information, visit www.parkvillemo.gov

City of Parkville, Missouri
Semi-Annual Report
January 1 through June 30, 2016

General Fund

Revenue

Taxes	1,135,364
Licenses	48,775
Permits	107,455
Franchise Fees	364,281
Sales Taxes	541,635
Other Revenue	22,849
Court Revenue	106,073
Interest Income	4,380
Grants and Miscellaneous Revenue	28,790
Transfers In	171,765

Total Revenue	2,531,366
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Expenditures

Administration	502,146
Police Department	517,872
Municipal Court	69,414
Public Works	82,624
Community Development	119,795
Street Department	191,527
Parks Department	152,255
Nature Sanctuary	9,801
Channel 2/Website	2,950
Transfers Out	158,750
Information Technology	27,688
Capital Outlay	96,441

Total Expenditures	1,931,262
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Funds Carried Forward for current year	1,347,819
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Revenue & Carryover, net of Expenditures	1,947,922
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Enterprise Fund - Sewer Utility

Revenue	507,456
Expenditures	595,884
Funds Carried Forward for current year	-
Revenue & Carryover, net of Expenditures	(88,428)

Debt Service Funds

Revenue	991,906
Expenditures	470,563
Revenue, net of Expenditures	521,343

Reserved and Restricted Funds

Revenue	844,565
Expenditures	807,243
Revenue, net of Expenditures	37,322

Debt of the City of Parkville, June 30, 2016

Certificates of Participation		3,383,722
Sewer Utility		1,310,000
Neighborhood Improvement Districts (NIDs)	¹	<u>10,250,000</u>
Total Debt		<u><u>14,943,722</u></u>

¹ NID debt payments are a valid and legally binding indebtedness of the City payable from special assessments on properties benefitted by the improvements.

Submitted by Stephen D. Berg, Treasurer

CITY OF PARKVILLE

Policy Report

DATE: Thursday, August 18, 2016

Prepared By:

Jon Jordan
Captain

Reviewed By:

Kevin L. Chrisman
Chief of Police

ISSUE:

Approve a request to declare the 1997 Jeep Cherokee as surplus equipment and auction it through a vehicle auction conducted by KCI Auto Auction in Kansas City, Missouri.

BACKGROUND:

Several years ago the white, 1997, Jeep Cherokee was donated to the City of Parkville by the City of Riverside, Missouri to be used by Community Development. The Jeep does not have air conditioning and has not been used by Community Development personnel in the past several years.

In 2012 the Police Department had a need for an additional four wheel drive vehicle during inclement weather and the Jeep Cherokee is four wheel drive. Sean Ackerson, the Community Development Director at the time, approved the Police Department using the Jeep Cherokee. The Jeep Cherokee was equipped with emergency equipment and became an additional patrol vehicle to be used during inclement weather. Since then the Police Department has added several all-wheel drive patrol vehicles to the fleet therefore the Jeep is no longer needed.

BUDGET IMPACT:

Funds generated by this auction will be deposited into the General Fund.

ALTERNATIVES:

1. Declare the 1997 Jeep Cherokee as surplus and authorize staff to auction it through KCI Auto Auction of Kansas City, Missouri.
2. Declare the 1997 Jeep Cherokee as surplus and direct staff to select another option for the sale of the vehicle.
3. Do not declare the 1997 Jeep Cherokee as surplus and direct staff of another use for the vehicle.

RECOMMENDATION:

Staff recommends auctioning the 1997 Jeep Cherokee through KCI Auto Auction of Kansas City, Missouri.

POLICY:

Per the Purchasing Policy (Resolution No. 10-02-14), the Board of Aldermen must declare an item surplus prior to disposal if the cost to the City at the time of purchase was \$2,500 or more.

SUGGESTED MOTION:

I move to recommend that the Board of Aldermen approve declaring the 1997 Jeep Cherokee as surplus and approve disposing it through KCI Auto Auction.

CITY OF PARKVILLE Policy Report

Date: August 23, 2016

Prepared By:
Alysen Abel
Public Works Director

Reviewed By:
Tim Blakeslee
Assistant to the City Administrator

ISSUE:

Approve a construction agreement with Twin Traffic Marking Corp. for the 2016 Pavement Marking Program.

BACKGROUND:

The City programmed money in the 2016 Capital Improvements Program (CIP) for pavement marking. The Public Works staff has identified various streets around the City in need of being re-striped. The recommended locations for pavement marking include:

- Eastside Drive
- Cross Road
- South Crooked Road
- Brink Myers Road
- Bell Road at 45 Hwy
- 63rd Street
- N. Crooked Road
- Mill Street (Main Street to Crooked Road)

In August, the City released a bid request for the pavement marking, which included a detailed list of the proposed areas to be striped. The City received bids from two local contractors. Unit prices, as well as total project cost, were requested in the bid packet.

<u>Company</u>	<u>Total Project Cost</u>
Twin Traffic Marking Corp. (Kansas City, KS)	\$12,695.00
K & G Striping, Inc. (Riverside, MO)	\$14,467.25

The lowest bidder was Twin Traffic Marking Corp. with a total project cost of \$12,695.00. There was a slight math error in the bid tabulation for the Bell Road marking, the price extension was not listed correctly. The total contract amount shown on the bid tabulation was correct. The contract amount will reflect the correct amount.

BUDGET IMPACT:

The 2016 Capital Improvement Program includes \$20,000 for street striping. The low bid was \$12,695.00, which is within budget.

ALTERNATIVES:

1. Approve a construction agreement with Twin Traffic Marking Corp. for the 2016 Pavement Marking Program in the amount of \$12,695.00.
2. Provide alternative direction to staff.
3. Postpone the item.

ITEM 3D

For 08-29-16

Board of Aldermen - Finance Committee Meeting

STAFF RECOMMENDATION:

Staff recommends the approval of a construction agreement with Twin Traffic Marking Corp. for the 2016 Pavement Marking Program in the amount of \$12,695.00.

POLICY:

The Purchasing Policy, Resolution No. 10-02-14, requires the Board of Aldermen to approve all purchases above \$10,000 upon recommendation of the Finance Committee.

SUGGESTED MOTION:

I move to recommend that the Board of Aldermen approve the construction agreement with Twin Traffic Marking Corp. for the 2016 Pavement Marking Program in the amount of \$12,695.00.

ATTACHMENTS:

1. Bid Tabulation
2. Detailed Bid Tabulation
3. Proposed Agreement

BID TABULATION
2016 PAVEMENT MARKING PROGRAM
BID DATE: AUGUST 16, 2016, 10:00 A.M.

Bidder	TOTAL
Twin Traffic Marking Corp. (Kansas City, Kansas)	\$12,695.00 *
K & G Striping, Inc. (Riverside, MO)	\$14,467.25

*Denotes recommended contractor

BID TABULATION BREAKDOWN
 2016 PAVEMENT MARKING PROGRAM
 TWIN TRAFFIC MARKING CORP.

Re-stripe 4" stripes with glass beads applied directly after painting with HyBuild White and Yellow. Pavement marking should be performed utilizing truck-mounted equipment with the exception of some items listed below under "Additional Pricing".

Item	Description	Quantity	Unit	Unit Price	Total
Eastside Drive	Double Yellow Center Line	1,375	Lineal Ft.	\$.50	\$ 687.50
	Shoulder Lines White	2,750	Lineal Ft.	\$.25	\$ 687.50
Cross Road	Double Yellow Center Line	1,450	Lineal Ft.	\$.50	\$ 725.00
	Shoulder Lines White	2,900	Lineal Ft.	\$.25	\$ 725.00
Crooked Road (south)	Double Yellow Center Line	5,450	Lineal Ft.	\$.50	\$ 2,725.00
	Shoulder Lines White	8,900	Lineal Ft.	\$.25	\$ 2,225.00
Brink Myers Road	Double Yellow Center Line	1,950	Lineal Ft.	\$.50	\$ 975.00
	Shoulder Lines White	3,600	Lineal Ft.	\$.25	\$ 900.00
Bell Rd. @ 45 Highway	Double Yellow Center Line	470	Lineal Ft.	\$.50	\$ 235.00*
63 rd Street	Double Yellow Center Line	100	Lineal Ft.	\$.50	\$ 50.00
Total	Double Yellow Center Line	10,795	Lineal Ft.		\$ 5,397.50
	Shoulder Lines White	18,150	Lineal Ft.		\$ 4,537.50

RE-STRIPE TOTAL \$ 9,935.00

*Twin Traffic Marking had a math extension error on the bid form. The error did not affect the outcome, and Twin Traffic Marking was still the low bidder.

New striping and layout on new pavement installed in 2016. Restripe 4" stripes with glass beads applied directly after painting.

N. Crooked Road	Double Yellow Center Line	1,600	Lineal Ft.	\$.60	\$ 960.00
	Shoulder Lines White	2,600	Lineal Ft.	\$.30	\$ 780.00
Mill Street (Main to Crooked Rd)	Double Yellow Center Line	1,100	Lineal Ft.	\$.60	\$ 660.00
	Shoulder Lines White	1,200	Lineal Ft.	\$.30	\$ 360.00
Total	Double Yellow Center Line	2,700	Lineal Ft.		\$ 1,620.00
	Shoulder Lines White	3,800	Lineal Ft.		\$ 1,140.00

NEW STRIPE TOTAL \$ 2,760.00

BID TABULATION BREAKDOWN
2016 PAVEMENT MARKING PROGRAM
TWIN TRAFFIC MARKING CORP.

Additional Pricing:

Painted Stop Bars	\$ <u>80.00</u>
Thermoplastic Stop Bars	\$ <u>180.00</u>
Painted Crosswalk Bars*	\$ <u>225.00</u>
Thermoplastic Crosswalk Bars*	\$ <u>425.00</u>
Painted Turn Arrows	\$ <u>95.00</u>
Thermoplastic Turn Arrows	\$ <u>200.00</u>

*Crosswalks shall be 2-foot in width

SMALL CONSTRUCTION SERVICES AGREEMENT MAINTENANCE OR REPAIR PROJECT

THIS SERVICE AGREEMENT, entered into on this 6th day of September, 2016, by and between the CITY OF PARKVILLE, MISSOURI ("City") and TWIN TRAFFIC MARKING CORP. ("Contractor").

WHEREAS, the City seeks to hire Contractor to provide certain construction services as described in Exhibit "A" to this Agreement (the "Construction Services"); and

WHEREAS, the City has budgeted funds to acquire the services necessary to complete the Construction Services; and

WHEREAS, Contractor has the necessary staff and qualifications to provide the Construction Services to the City.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term "Construction Services" when used in this Agreement shall mean any and all labor, material, equipment, insurance, surety bonds or other thing of value that may be required by this Agreement including its exhibits.
- B. The City agrees to retain Contractor and Contractor agrees to perform and complete the Construction Services described in the **Exhibit "A"** – Scope of Work, attached hereto and incorporated by reference.
- C. Service Provider represents it has all necessary skills, personnel, financial capacity, licenses, permits, knowledge, and certifications required to perform the Services described herein.

II. COMPENSATION

- A. As consideration for providing the Construction Services, the City shall pay Contractor as set forth in **Exhibit "A"**.
- B. Contractor shall submit its invoices to the City either at completion of the Project, or on such milestone or other interim terms as set forth on **Exhibit "A"**. Contractor's final invoice shall be accompanied by Waivers of Lien and Releases of Claim on the forms attached as **Exhibit "B-2"** to this Agreement, executed by Contractor any all subcontractors with contract values of \$5,000 or more, and notarized. If partial payments are authorized on **Exhibit "A"**, then Contractor shall submit partial lien waivers on the form attached as **Exhibit "B-1."** The City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Contractor of the nature of the dispute regarding the balance.
- C. Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

III. SCHEDULE

- A. Time is of the essence in performance of this Agreement.
- B. Unless otherwise directed by the City, Contractor shall commence performance of the Construction Services upon execution of this Agreement.
- C. Services shall be completed within the schedule set forth on **Exhibit "A"**.
- D. Neither the City nor the Contractor shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- E. If **Exhibit "A"** contains a provision for Liquidated Damages, it shall be because the parties have agreed that late completion of the Construction Services by Contractor would cause irreparable harm to the City, which harm is difficult to quantify; and that the parties have agreed that the amount stated in Exhibit "A" for Liquidated Damages is a fair approximation of the daily costs that the City would incur for late Substantial Completion of the work.

IV. CHANGES

- A. The City reserves the right issue Changes, both additive and deductive, to the Scope of Work at the City's discretion. Contractor shall advise the City of additional costs and time delays, if any, resulting from such Changes, before Contractor performs the Changes. No adjustment to the Contract Time or Contract Price will be permitted unless Contractor has advised the City of the potential impact prior to commencing work on the Change, and the City either issues a Change Order which is agreed to by the parties, or the City directs the Contractor to proceed.
- B. Contractor shall provide Construction Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Contractor without the City's prior written consent shall be at the Contractor's own risk, cost, and expense, and Contractor shall not make a claim for compensation from the City for such work.

V. INDEMNIFICATION

- A. Contractor shall indemnify and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Contractor's negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Construction Services, including performance by Contractor's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials furnished by Contractor in the course of performance of the work, except to the extent that such claims arise from materials created or supplied by the City.
- B. Contractor's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Contractor whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

- A. Contractor shall secure and maintain, at its expense, through the duration of this Agreement insurance as set forth on **Exhibit "C."**

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Contractor's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Contractor.
- B. Unless otherwise stated in **Exhibit "A"**, Contractor shall be represented by a Superintendent or Foreman authorized to give and receive all instruction and notices from and to the City at all times while performing Construction Services, and shall have on site a person who is fluent in all languages necessary to communicate instructions regarding the work and information regarding medical emergencies with Contractor's employees and subcontractors.
- C. All of the Construction Services required hereunder will be performed by the Contractor or under Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement including, but not limited to, indemnification, insurance and warranties.
- E. Contractor and all subcontractors with a contract value of \$5,000 or more shall execute affidavits on the form attached as **Exhibit "D"**, attesting to their compliance with RSMo. § 285.530.5 concerning compliance with Missouri's Worker Eligibility requirements.
- F. Contractor and all subcontractors must require all on-site employees to complete the ten-hour construction training program required under Section 292.675 RSMo. unless they have previously completed the program and have documentation of having done so. Contractor shall execute the affidavit attached as **Exhibit "E"**, attesting that it has provided OSHA safety training for its on-site employees. Contractor will forfeit a penalty to the City of \$2,500 plus an additional \$100 for each employee employed by Contractor or any subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. See Section 292.675 RSMo.
- G. No illegal drug or alcohol usage will be tolerated at the Site. All persons admitted to work on the Site will dress appropriately and avoid foul language. Music shall not be played at volume levels that would be objectionable to third-parties. Any worker found by the City to be violating these conduct requirements will be removed immediately.

VIII. WARRANTY

- A. The Contractor warrants to the City that materials and equipment furnished under the Contract will be of good quality and new unless the Scope of Work documents require or permit otherwise. The Contractor further warrants that the work will conform to the requirements of the Scope of Work documents and will be free from defects, except for those inherent in the quality of the Work the Scope of Work documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the work not executed by the Contractor or its subcontractors or suppliers, improper or insufficient maintenance or improper operation. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranties required by the Agreement (express and implied) shall remain in full force and effect even if a material or equipment item is required by the Owner to be manufactured by a specific entity, and no other equivalent product manufactured by any other entity is acceptable.

- B. The Contractor's warranty in Section IX.A. shall not be construed to replace, change or otherwise limit any statutory or common law warranty rights of the Owner, or any other Contract requirements.

IX. OWNERSHIP OF WORK PRODUCT

Contractor agrees that any documents, materials and/or work products produced in whole or in part by or through it under this Agreement, any intellectual property rights of Contractor therein (collectively the "Works") are intended to be owned by the City. Accordingly, Contractor hereby assigns and agrees to assign to the City all of its right title and interest in and to such Works.

X. RELATIONSHIP OF THE PARTIES

- A. Contractor represents that it is an independent contractor and that no personnel performing any of the Construction Services shall be employees of or have any contractual relationship with the City.

XI. NOTICES

- A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:

- B. Notices sent by Contractor shall be sent to:

City of Parkville
Attn: City Administrator
8880 Clark Ave.
Parkville, MO 64152
(816) 741-7676

- C. Notices sent by the City shall be sent to:

Twin Traffic Marking Corp.
Attn: James Francis, President
626 N. 47th Street
Kansas City, Kansas 66102
(913) 428-2575

XII. CORRECTION OF WORK

The Contractor shall promptly correct work rejected by the City or failing to conform to the requirements of the Agreement, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for services and expenses of a designer made necessary thereby, shall be at the Contractor's expense. If the Contractor fails to correct nonconforming Work within ten (10) days after receipt of written notice from the City, the City may correct it at Contractor's expense.

XIII. TERM AND TERMINATION

- A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.
- B. Notwithstanding anything to the contrary in this Agreement or exhibit, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days' written notice to the Contractor. The City shall compensate Contractor for the Construction Services that have been completed to the City's satisfaction

as of the date of termination. Contractor shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.

- C. The City may terminate the Agreement for cause if the Contractor
1. refuses or fails to supply enough properly skilled workers or proper materials;
 2. fails to make payment to Subcontractors for materials, equipment, services or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 3. disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;
 4. or its Subcontractors or Sub-subcontractors causes a work stoppage due to any strike, picket, boycott or participates in any voluntary or involuntary cessation of Work; or
 5. otherwise is guilty of substantial breach of a provision of the Agreement.

When any of the above reasons exist, the City may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate the Agreement and may, subject to any prior rights of the surety, if any:

1. Exclude the Contractor from the Project site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
2. Direct the work of subcontractors; and
3. Finish the Work by whatever reasonable method the City may deem expedient. Upon written request of the Contractor, the City shall furnish to the Contractor a detailed accounting of the costs incurred by the City in finishing the Work.

When the Owner terminates the Agreement for one of the reasons stated in Section XIV. A., the Contractor shall not be entitled to receive further payment until the Work is finished.

If the unpaid balance of the Contract Price exceeds costs of finishing the Work, including compensation for the services and expenses of a designer, and legal, consultant and testing fees made necessary thereby, and other damages incurred by the City and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor or its surety, if any, shall pay the difference to the City upon demand. The obligation for payment, if any, shall survive termination of the Agreement.

XIV. MISCELLANEOUS PROVISIONS

- A. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. Assignability. Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

- C. Media Announcements. Contractor shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City
- D. Compliance with Local Laws. Contractor shall comply with all applicable laws, ordinances, and codes of the State of Missouri and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:
 - i. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, 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.
 - ii. Contractor will, in all solicitation or advertisements for employees placed by or on behalf of Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - iii. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and Contractor shall take appropriate steps to assure compliance.
- G. Interest of Contractor and Employees. Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- H. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Contractor, and attached hereto.
- I. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or enforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- J. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.

K. Third Parties. The Services to be performed by the Contractor are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF PARKVILLE, MISSOURI

By: _____

Nanette K. Johnston, Mayor

ATTEST:

Melissa McChesney, City Clerk

TWIN TRAFFIC MARKING CORP.

By: _____

James Francis, President

Exhibit A

SCOPE OF WORK AND PRICING AGREEMENT

Contractor agrees to perform all the Work described in the Contract Documents, including all Addenda, for the prices presented below for each Section of the Work.

A. Striping Specifications:

1. Paint – HyBuild white and yellow
2. Application – Re-stripe 4’ stripes with glass beads applied directly after painting.
3. Work to be performed with truck-mounted equipment with the exception of some work items under “Additional Pricing” below.

Item	Description	Quantity	Unit	Unit Price	Total
Eastside Drive	Double Yellow Center Line	1,375	Lineal Ft.	\$.50	\$ 687.50
	Shoulder Lines White	2,750	Lineal Ft.	\$.25	\$ 687.50
Cross Road	Double Yellow Center Line	1,450	Lineal Ft.	\$.50	\$ 725.00
	Shoulder Lines White	2,900	Lineal Ft.	\$.25	\$ 725.00
Crooked Road (south)	Double Yellow Center Line	5,450	Lineal Ft.	\$.50	\$ 2,725.00
	Shoulder Lines White	8,900	Lineal Ft.	\$.25	\$ 2,225.00
Brink Myers Road	Double Yellow Center Line	1,950	Lineal Ft.	\$.50	\$ 975.00
	Shoulder Lines White	3,600	Lineal Ft.	\$.25	\$ 900.00
Bell Rd. @ 45 Highway	Double Yellow Center Line	470	Lineal Ft.	\$.50	\$ 235.00
63 rd Street	Double Yellow Center Line	100	Lineal Ft.	\$.50	\$ 50.00
Restripe - Total	Double Yellow Center Line	10,795	Lineal Ft.	\$.50	\$ 5,397.50
	Shoulder Lines White	18,150	Lineal Ft.	\$.25	\$ 4,537.50

Restripe – Total

\$ 9,935.00

New striping and layout on new pavement installed in 2016. Restripe 4' stripes with glass beads applied directly after painting.

N. Crooked Road	Double Yellow Center Line	1,600	Lineal Ft.	\$.60	\$960.00
	Shoulder Lines White	2,600	Lineal Ft.	\$.30	\$780.00
Mill Street (Main St to Crooked Rd)	Double Yellow Center Line	1,100	Lineal Ft.	\$.60	\$660.00
	Shoulder Lines White	1,200	Lineal Ft.	\$.30	\$360.00
New Striping - Total	Double Yellow Center Line	2,700	Lineal Ft.	\$.60	\$1,620.00
	Shoulder Lines White	3,800	Lineal Ft.	\$.30	\$1,140.00

New Stripe – Total \$2,760.00

TOTAL PROJECT PRICE \$ 12,695.00

Additional Pricing:

Painted Stop Bars	\$ <u>80.00</u>	Price per Lineal Foot
Thermoplastic Stop Bars	\$ <u>180.00</u>	Price per Lineal Foot
Painted Crosswalk Bars*	\$ <u>225.00</u>	Price per Lineal Foot
Thermoplastic Crosswalk Bars*	\$ <u>425.00</u>	Price per Lineal Foot
Painted Turn Arrows	\$ <u>95.00</u>	Price per Each
Thermoplastic Turn Arrows	\$ <u>200.00</u>	Price per Each

*Crosswalks shall be 2 foot in width

- B. All work **must be** coordinated in advance with Alan Schank, Director of Operations, at 913-915-4156. Exact locations for striping will be determined and staked on-site, with visual inspection and approval to be provided by Mr. Schank as the City’s authorized representative.
- C. Work shall be completed within 60 days from Notice to Proceed.
- D. Contractor must maintain a City of Parkville Business License.

CITY OF PARKVILLE Policy Report

Date: Tuesday, August 23, 2016

Prepared By:
Lauren Palmer
City Administrator

Reviewed By:
Melissa McChesney
City Clerk

ISSUE:

Approve an increase in expenditure authority for Cunningham, Vogel & Rost, P.C. for special legal counsel services related to telecommunications and cell phone towers.

BACKGROUND:

On June 7, 2016, the Board of Aldermen adopted Ordinance No. 2848 to approve a legal services agreement with Cunningham, Vogel & Rost, P.C. for special legal counsel services related to cell phone towers. Attorney Dan Vogel of the firm is assisting the city with negotiation of a renewal lease with Kansas City SMSA Limited Partnership (an affiliate of American Tower Corporation) for the cellular tower site generally located behind the Parkville street maintenance facility at 6407 NW Graden Road. The original lease term expired in 2014, but the agreement continues under the same terms and conditions on a year-to-year basis unless either party terminates by giving at least six months' notice.

Ordinance No. 2848 caps the firm's billings for fees, expenses and client disbursements related to this engagement at \$10,000 without prior written authorization from the City of Parkville in accordance with the Purchasing Policy. Mr. Vogel recently advised that the firm is coming close to reaching this cap and requested additional authorization to complete the project. Mr. Vogel and his associates used more of the funding authorization than originally anticipated securing back rent and assisting the Community Development Department with updating city ordinances related to cell tower regulations. The update was necessary due to recent changes in state law.

Staff recommends authorizing an additional \$10,000 (to increase the maximum to \$20,000). Mr. Vogel was already successful in securing full payment plus interest in the amount of \$44,200 for past due rent since the original lease term expired in 2014. If American Tower continues to be cooperative and responsive in lease negotiations, the additional funding should be sufficient. However, the costs are somewhat unpredictable depending on offers from the company and responses from the Board of Aldermen. Staff will keep the Board informed as negotiations proceed and direction is needed.

BUDGET IMPACT:

Mr. Vogel's billing rate is \$325 per hour and he is assisted as needed by associates with rates of \$160 and \$195 per hour. Costs are billed on an hourly basis. Staff recommends increasing the maximum not-to-exceed amount of this engagement from \$10,000 to \$20,000 without prior authorization. There are adequate funds budgeted in the legal services line of the General Fund – Administration Department (10-501-08-01-00) for special legal services to supplement city attorney services. In addition, the costs are more than offset by the company's recent payment of \$44,200 for back rent and interest.

ALTERNATIVES:

1. Approve an increase in expenditure authority in the amount of \$10,000 for Cunningham, Vogel & Rost, P.C. for special legal counsel services related to telecommunications and cell phone towers.
-

ITEM 3E

For 08-29-16

Board of Aldermen – Finance Committee Meeting

2. Approve an increase for a lesser amount determined by the Finance Committee.
3. Reject the increase and provide further direction to staff and legal counsel.
4. Postpone the item.

STAFF RECOMMENDATION:

Staff recommends that the Finance Committee approve an increase in expenditure authority in the amount of \$10,000 for Cunningham, Vogel & Rost, P.C. for special legal counsel services related to telecommunications and cell phone towers.

POLICY:

State statute (RSMo 79.230) requires that special legal counsel must be engaged by the Board of Aldermen by approval of an ordinance. The Board engaged Cunningham, Vogel, & Rost, P.C. by Ordinance No. 2848. Per the ordinance, billings related to the engagement may not exceed \$10,000 without prior written authorization from the City in accordance with the Purchasing Policy. The Purchasing Policy, Resolution No. 16-012, authorizes the Finance Committee to approve expenditures up to \$10,000.

SUGGESTED MOTION:

I move to approve an increase in expenditure authority in the amount of \$10,000 for Cunningham, Vogel & Rost, P.C. for special legal counsel services related to telecommunications and cell phone towers.

CITY OF PARKVILLE Policy Report

Date: Tuesday, August 23, 2016

Prepared By:
Melissa McChesney
City Clerk

Reviewed By:
Lauren Palmer
City Administrator

ISSUE:

Amend the professional services agreement with the Platte County Citizen for newsletter creation, publishing and mailing services and authorize the expenditure of \$300 to cover a portion of the postage for the fall 2016 newsletter.

BACKGROUND:

On September 1, 2015, the Board of Aldermen approved a professional services agreement with the Platte County Citizen through December 31, 2015 with the option to renew for two additional one-year terms upon notice from the City at least 30 days of the contract expiration. City staff requested confirmation on November 13, 2015, via e-mail and received confirmation of the contract extension on December 3, 2015. The contract will expire on December 31, 2016, but can be renewed for one additional year.

As part of the agreement, the newsletter was to be supported entirely by advertisements sold by the Citizen. On August 4, 2016, the Citizen representative contacted staff via e-mail stating she was unsure the newspaper would be able to continue providing the service because the profit margin was too narrow by the time expenses were paid for printing, folding, tabbing, addressing and mailing. In addition to the cost of these items, the Citizen had problems receiving money from a few of the advertisers. In a subsequent e-mail, the Citizen requested help from the City to cover the cost of postage for the newsletter. For the fall 2015 and spring 2016 newsletters, the average cost of postage was \$616 (see Attachment No. 2).

According to Exhibit A of the agreement, the Citizen and City staff will need to determine the fall 2016 newsletter deadlines by September 10 in order to meet the contract requirements. Previous newsletters created in-house were revenue-neutral but because of the additional burden for staff to put together the fall 2016 newsletter with such short notice, staff recommends approving \$300 to cover half the cost of postage so the Citizen can create, publish and mail the fall 2016 newsletter. Staff is willing to invest the additional funds this time to see how it goes. The City has the option to terminate the contract at the end of the year.

In addition to these funds, staff has offered to contact the City's prior newsletter advertisers to let them know they can contact the Citizen to advertise in the fall 2016 newsletter. Staff also recommended that the Citizen should require the advertisers to pre-pay for the ads to ensure the newsletter is paid for before it goes to print. The City was successful in doing this in prior years.

BUDGET IMPACT:

This expense was not budgeted in the 2016 Budget but there are adequate funds in the Advertising/Public Notice line of the General Fund – Administration Department (10-501.07-02-00) to cover the expense.

ITEM 4A

For 08-29-16

Board of Aldermen – Finance Committee Meeting

ALTERNATIVES:

1. Amend the agreement with The Platte County Citizen and approve the expenditure of \$300 to cover postage for the fall 2016 newsletter.
2. Amend the agreement and propose a dollar amount to cover postage for the fall 2016 newsletter.
3. Do not amend the agreement and provide alternative direction to staff.
4. Postpone the item.

STAFF RECOMMENDATION:

Staff recommends that the Finance Committee amend the professional services agreement with the Platte County Citizen for newsletter creation, publishing, and mailing services, and authorize the expenditure of \$300 to cover a portion of the postage for the Fall 2016 newsletter.

POLICY:

Since the financial impact is below \$10,000, the Finance Committee may amend this contract per the purchasing policy (Resolution No. 16-012).

SUGGESTED MOTION:

I move to amend the professional services agreement with The Platte County Citizen for newsletter creation, publishing, and mailing services and authorize the expenditure of \$300 to cover a portion of the postage for the fall 2016 newsletter.

ATTACHMENTS:

1. Original Agreement
2. Fall 2015 & Spring 2016 Financial Reports

NEWSLETTER CREATION, PUBLISHING, AND MAILING SERVICES PROFESSIONAL SERVICES AGREEMENT

THIS SERVICE AGREEMENT, entered into on this 1st day of September, 2015 by and between the CITY OF PARKVILLE, MISSOURI ("City") and Platte County Citizen ("Service Provider").

WHEREAS, the City requires creation, publishing, and mailing services for a bi-annual citizen newsletter that is mailed to all residences and businesses in Parkville ("Project"); and

WHEREAS, Service Provider was chosen through a qualifications and fee based selection process and has demonstrated the necessary expertise, experience, and personnel to complete the Project.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term "Services" when used in this Agreement shall mean any and all newsletter creation, publishing, and mailing services provided by the Service Provider in accordance with this Agreement.
- B. The City agrees to retain Service Provider and Service Provider agrees to perform and complete the scope of Services described in the Exhibit A – Work Plan, attached hereto and incorporated by reference.
- C. The City reserves the right to direct revision of the Services at the City's discretion. Service Provider shall advise the City of additional costs and time delays, if any, in performing the revision, before Service Provider performs the revised services.
- D. Service Provider shall provide Additional Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Service Provider without the City's prior written consent shall be at the Service Provider's own risk, cost, and expense, and Service Provider shall not make a claim for compensation from the City for such work.

II. STANDARD OF CARE

- A. Service Provider shall exercise the same degree of care, skill, and diligence in the performance of all Services to the City that is ordinarily possessed and exercised by reasonable, prudent, and experienced professionals under similar circumstances.
- B. Service Provider represents it has all necessary licenses, permits, knowledge, and certifications required to perform the Services described herein.

III. COMPENSATION

- A. As consideration for providing the Services, the City shall pay Service Provider as follows:
 - a. The newsletter will be supported entirely by advertisements sold by the Service Provider in accordance with Exhibit A. The City will provide no direct compensation for the Services provided.
 - b. Service Provider is not eligible for reimbursement for miscellaneous expenses including travel, transportation, postage, etc.
- B. If Additional Services are applicable, Service Provider shall submit an itemized invoice to the City on the first day of each month that details the Services that were provided in the month immediately prior, as well as any other charges or reimbursements to which the Service Provider is entitled by this Agreement. The City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date

of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Service Provider of the nature of the dispute regarding the balance.

- C. Service Provider shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

IV. SCHEDULE

- A. Unless otherwise directed by the City, Service Provider shall commence performance of the Services upon execution of this Agreement.
- B. Services shall be completed in accordance with the schedule outlined in Exhibit A.
- C. Neither the City nor the Service Provider shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- D. If Service Provider's performance is delayed due to delays caused by the City, Service Provider shall have no claim against the City for damages or payment adjustment other than an extension of time to perform the Services.

V. LIABILITY AND INDEMNIFICATION

- A. Service Provider shall indemnify, defend and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Service Providers' negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Services, including performance by Service Provider's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials Service Provider creates or supplies to the City, except to the extent that such claims arise from materials created or supplied by the City.
- B. Service Provider's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Service Provider whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

- A. The Service Provider shall secure and maintain, at its expense, through the duration of this Agreement Commercial General Liability Insurance on an occurrence basis with minimum limits of \$1,000,000 per occurrence and \$1,000,000 aggregate coverage. Service Provider shall also secure and maintain Worker's Compensation and Employer's Liability Insurance, when applicable, at the limits required by state and/or federal law. The City will only accept coverage from an insurance carrier that offers proof that it :
 - a. Is licensed to do business in the State of Missouri;
 - b. Carries a Best's policy holder rating of A or better; and
 - c. Carries at least a Class X financial rating.
- B. Service Provider shall furnish the City with a Certificate of Insurance on a standard ACORD form, indicating types of insurance, policy numbers, dates of commencement and expiration of policies and carriers. Service Provider shall cause the City to be included as an Additional Insured, and shall require its insurer to provide the City with at least 30 days advance notice of cancellation. Service Provider shall deliver to the City a copy of an Additional Insured Endorsement, using ISO Additional Insured Endorsement (CG 20 10), edition date 11/85, or an equivalent (e.g., CG 20 10, edition date 10/93, plus CG 20 37, edition date 04/13 or other carrier form) and a Notice of Cancellation Endorsement, using CNA form G-140327-B (Ed. 07/11), Travelers Form IL T4 00 (12/09) or other equivalent carrier forms. A copy of the Notice of Cancellation Endorsement and Additional Insured Endorsement must be furnished to the City prior to commencement of any services on City property.

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Service Provider's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Service Provider.
- B. While upon City premises, the Service Provider's employees and agents shall be subject to the City's rules and regulations respecting its property and the conduct of employees thereon.

VIII. OWNERSHIP OF WORK PRODUCT

Service Provider agrees that any documents, materials and work products produced in whole or in part through it under this Agreement, any intellectual property rights of Service Provider therein (collectively the "Works") are intended to be owned by the City. Accordingly, Service Provider hereby assigns to the City all of its right title and interest in and to such Works.

IX. RELATIONSHIP OF THE PARTIES

- A. Service Provider represents that it has, or will secure at Service Provider's own expense, all personnel required in performing the Services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
- B. All of the Services required hereunder will be performed by the Service Provider or under Service Provider's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- C. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

X. NOTICES

- A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:
- B. Notices sent by Service Provider shall be sent to:
 - City of Parkville
 - Attn: Assistant to the City Administrator
 - 8880 Clark Ave.
 - Parkville, MO 64152
 - tblakeslee@parkvillemo.gov
- C. Notices sent by the City shall be sent to:
 - Platte County Citizen
 - Attn: Pam Ulitschan
 - PO BOX 888
 - Platte City, MO 64079
 - advertising@plattecountycitizen.com

XI. TERM AND TERMINATION

- A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.
- B. The term of this Agreement shall begin upon execution of the Agreement and will continue until December 31, 2015 and may be renewed for two additional one year terms upon written notice by the City at least 30 days prior to expiration of the then current term.
- C. Notwithstanding Article XI, Paragraph B, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days written notice to the Service Provider. The City shall compensate Service Provider for the Services that have been completed to the City's satisfaction as of the date of termination. Service Provider shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.

XII. MISCELLANEOUS PROVISIONS

- A. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. Assignability. Service Provider shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Service Provider from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
- C. Media Announcements. Service Provider shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City
- D. Compliance with Local Laws. Service provider shall comply with all applicable laws, ordinances, and codes of the State and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. Equal Employment Opportunity. During the performance of this Agreement, Service Provider agrees as follows:
 - i. Service Provider will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service

Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, 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.

- ii. Service Provider will, in all solicitation or advertisements for employees placed by or on behalf of Service Provider, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - iii. Service Provider will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. Authorized Employees. Service Provider acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Service Provider therefore covenants that it will not knowingly be in violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform Services related to this Agreement, and that its employees can lawfully to work in the United States.
- G. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and Service Provider shall take appropriate steps to assure compliance.
- H. Interest of Service Provider and Employees. Service Provider covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the scope of work associated with this Agreement or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Service Provider further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- I. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Service Provider, and attached hereto.
- J. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or unenforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- K. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.

L. Third Parties. The Services to be performed by the Service Provider are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.



ATTEST:

Melissa McChesney

Melissa McChesney, City Clerk

CITY OF PARKVILLE, MISSOURI

By: *Nanette K. Johnston*

Nanette K. Johnston, Mayor

Platte County Citizen

By: *Pam Ulitschan*

Pam Ulitschan
Advertising and Marketing Manager

EXHIBIT A: Work Plan

- Create, publish, and mail a high-quality city newsletter. Newsletter shall be mailed out to Parkville residents and licensed businesses in Parkville. In general, the newsletter shall contain current city news, updates from partner organizations (including but not limited to, Main Street Parkville Association, Park University, Parkville Area Chamber of Commerce, Parkville Nature Sanctuary, Friends of Parkville Animal Shelter, and Friends of Parkville Parks), event notices, project updates, photos, and paid advertisements.
 - The first newsletter will be mailed no later than November 20, 2015. The date that newsletters are submitted to the United States Postal Service for delivery is the "Publication Date." If subsequent newsletters are approved subject to Section XI.B of the Agreement, then the City and Service Provider will mutually agree upon the Publication Date of the following newsletter within 60 days of the Publication Date of the prior newsletter.
 - The City will supply all publication content, unless otherwise requested, no later than 30 days before the Publication Date.
 - The City will retain complete editorial control over all publication content.
 - Service Provider will deliver a proof copy of the newsletter to the City for review and approval no later than 15 business days prior the Publication Date. The City must provide any requested changes to the proof copy in writing to the Service Provider no later than 10 days before the Publication Date. The City's failure to respond in a timely manner should not be interpreted as automatic approval of the proof copy. No newsletter shall be sent to final print without express written approval from the City.
 - The publication will carry the City's logo and brand and be clearly identifiable as a product of the City of Parkville
 - The size of the newsletter will be determined by the amount of advertising that is paid. The maximum advertisement to content ratio will be 50 percent ads to 50 percent content. Higher percentage of advertisements to content must be approved by the City.
 - The newsletter will be printed in black and white unless advertisement sales can support a color/partial color publication.
- The City will provide the following information to the Service Provider to aid in the transition of newsletter publication from the City to the Service Provider:
 - List and contact information of previous newsletter advertisers.
 - Expenditures and revenues associated with previous newsletters.
 - Mailing list of City of Parkville residents and all licensed Parkville businesses.
 - List and contact information of all businesses that hold an active business license with the City.
- Service Provider will be responsible for securing advertisements to support the publication within the following general parameters established by the City:
 - First priority will be given to advertisers with a physical presence in the corporate city limits of Parkville.

- Political advertisements or endorsements are not allowed in any city sponsored publication under any circumstances.
- In order to avoid the appearance of impropriety, the City reserves the right to reject advertisements from any business with a pending development application before the City of Parkville such as a request for rezoning or economic development incentives.
- Advertisements must be clearly represented as such. The City reserves the right to require the addition of “paid advertisement” or similar language to any advertisement that resembles city content. The City may not endorse any particular product or business through publication content.
- The City reserves the right to reject any advertisements that meet any one or more of these criteria: includes false, misleading or deceptive content; advertisement for a Parkville business that does not have a valid business license or is not current on any applicable taxes, licenses, or fees; relates to an illegal activity; contains or advertises explicit sexual material, obscene material, or material harmful to minors; includes language that is obscene, vulgar, or profane; depicts violence or anti-social behavior; projects an image or message that is inconsistent with the mission and reputation of the City.

Tim Blakeslee

From: Tim Blakeslee
Sent: Friday, December 04, 2015 9:26 AM
To: 'Citizen Advertising'
Subject: RE: Spring Advertising Interest and Spring Newsletter Date

Hi Will,

Those dates look good. We'll plan on getting you copy by February 29th. I'll follow up in January with any updates to our business license and address list.

Thanks,

Tim

Tim Blakeslee
Assistant to the City Administrator
816-741-7676
tblakeslee@parkvillemo.gov

Like Parkville on [Facebook](#)
Follow Parkville on [Twitter](#)

From: Citizen Advertising [<mailto:advertising@plattecountycitizen.com>]
Sent: Thursday, December 03, 2015 10:47 AM
To: Tim Blakeslee
Subject: RE: Spring Advertising Interest and Spring Newsletter Date

Tim,
We look forward to working with you on the Spring newsletter. Looks like copy deadline of February 29, ad deadline March 2, print March 9, label and mail March 14, 15 and 16.

Let me know what you think about these dates.

- Will Johnson

The Platte County Citizen • Citizen Direct • Citizen Printing
(816) 858-5154

From: Tim Blakeslee [<mailto:tblakeslee@parkvillemo.gov>]
Sent: Tuesday, December 01, 2015 3:09 PM
To: Citizen Advertising
Subject: Spring Advertising Interest and Spring Newsletter Date

Hi Will,

I'm forwarding along the two folks who were interested in more information about advertising in the spring newsletter, based on what they saw in the fall edition.

- Donna with Dentist DeAun Regan in Parkville, 407 Main St, Parkville, MO 64152, donna@regandental.com, 816-505-9445'
- Tina Welch, Reese Nichols, 816-741-2510

Would March 21 work for you as a good publication date for the Spring newsletter? We'd like to get it mailed out before the elections in the spring so folks know what's on the ballot and who's running.

Thanks,

Tim

Tim Blakeslee

Assistant to the City Administrator

816-741-7676

tblakeslee@parkvillemo.gov

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No virus found in this message.

Checked by AVG - www.avg.com

Version: 2015.0.6176 / Virus Database: 4460/11057 - Release Date: 11/24/15

Internal Virus Database is out of date.

Tim Blakeslee

From: Tim Blakeslee
Sent: Friday, November 13, 2015 11:29 AM
To: 'Citizen Advertising'
Subject: Future Newsletter Questions

Hi Folks at Citizen (not sure who I need to direct my email too 😊),

Thank you again for helping to put together the fall newsletter. We've heard nothing but positive comments about it from our residents. I've even fielded a few calls from folks who have seen it and are interested in advertising in the next edition and I've jotted their names down.

With that in mind, I think we need to decide if we are going to continue this partnership in the spring. The spring newsletter comes up faster than the fall one. We try to get the spring one out by late March (before the April election). Historically advertising sales have also been easier. We're interested in continuing the partnership, but I know it's a new venture for you guys. We're open to your suggestions, changes that you recommend, etc... Let me know your thoughts or give me a call at 816-268-5010.

Have a good weekend,

Thanks,

Tim

Tim Blakeslee
Assistant to the City Administrator
816-741-7676
tblakeslee@parkvillemo.gov

Like Parkville on [Facebook](#)
Follow Parkville on [Twitter](#)

Parkville Newsletter Advertisers - FALL 2015

Urban Tree Specialist - 1/4 page (prime placement on front)	\$375
All Seasons Roofing - 1/4 page (prime placement on front)	\$375
	(finally paid Aug. 2016)
Wells Bank - 1/4 page	\$275
Platte Valley Bank - 1/4 page	\$275
Steve's Heating & Cooling - 1/8 page	\$175
RMI Golf Carts - 1/2 page	\$425
Frank James Saloon - 1/4 page	\$275
Haith & Co. - 1/4 page	\$275
Total Revenue	\$2,450

EXPENSES

Printing Cost - 2,750 12-page Parkville Newsletters	\$1,035
Mailing Service - Addressing and Tabbing	\$386.60
Postage	\$625.72
Ad Salesperson - Time, followup, mileage, etc.	\$475.00
Total Expenses	\$2522.32
	Profit (\$72.00)

Parkville Newsletter Advertisers - SPRING 2016

Platte Rental & Supply - 1/2 page (prime placement on front)	\$500
North Kansas City Hospital - 1/2 page	\$425
Platte Valley Bank - 1/8 page	\$175
The Vein Doctor - 1/4 page	\$275
American Medical Response (AMR) - 1/2 page	\$425
Bank Liberty - 1/4 page	\$275
Frank James Saloon - 1/4 page	\$275
	(still trying to collect payment)
Urban Tree Specialist - 1/4 page	\$275
Pride Martial Arts - 1/2 page	\$425
	(finally paid Aug. 2016)
Park University - 1/2 page	\$425
Steve's Heating & Cooling - 1/8 page	\$175
Wells Bank - 1/4 page	\$275
	Total Revenue
	\$3,925

EXPENSES

Printing Cost - 2,750 12-page Parkville Newsletters	\$1,127.20
Mailing Service - Addressing and Tabbing	\$387.26
Postage	\$607.36
Un-Paid Ad	\$275
Ad Salesperson - Time, followup, mileage, etc.	\$680
	Total Expenses
	\$3,076.82
	Profit
	\$848.18

CITY OF PARKVILLE Policy Report

Date: Friday, August 19, 2016

Prepared By:

Tim Blakeslee

Assistant to the City Administrator

Reviewed By:

Lauren Palmer

City Administrator

ISSUE:

Request for approval to select Nationwide Payment Solutions/Municipay to provide credit and debit card processing for City Hall and the Parkville Municipal Court.

BACKGROUND:

Prior to 2014, the City Hall front desk could only accept cash, check, or Automated Clearing House (ACH) payments from a customer's bank. For customer convenience, city staff has sought an option to be able to accept payments for sewer bills, business licenses, and other charges at City Hall with a credit or debit card. In April 2014, staff recommended contracting with TSYS Merchant Solutions (TSYS) to provide credit and debit card processing for various transactions at City Hall. To accept credit cards, the city pays account fees and processing fees charged by TSYS. Processing fees depend on the type of card used. Regular credit cards, business credit cards, reward credit cards, and debit cards all have different fee structures.

The city has three separate accounts with TSYS (sewer, administration, court).

- For the administration account, the city charges a convenience fee to help cover the cost of the account fees and processing fees. In 2015, the city paid \$1,511.74 in credit card fees and collected \$1,312.50 in convenience fee charges related administration.
- For the sewer account, the city opted not to charge a convenience fee and rather to absorb account fees and processing fees as a business expense since this is an enterprise fund. In 2015, the city paid \$2,732.00 in account fees and processing fees related to sewer payments.
- For the court account, the city cannot charge a convenience fee. In 2015, the city paid \$1,414.07 in account fees and processing fees related to court.

At time the city selected TSYS, the effective rate of their fees (all fees divided by total volume) was around 3%. Since that time, processing fees and account fees from TSYS have steadily increased. Currently, the administration effective rate is 4.49%, the sewer effective rate is 3.18%, and the court effective rate is 5.49%.

As a result, city staff recommends switching providers to Nationwide Payment Solutions/Municipay (Municipay) to provide credit and debit card processing for City Hall and the Parkville Municipal Court. Benefits of Municipay in comparison to TSYS are:

- Lower effective rates:
 - Administration account: No cost to the city, \$3.00 or 2.45% per transaction passed along directly to customer. Detailed in the convenience fee model section below.
 - Sewer effective rate is approximately 2.32%.
 - Court effective rate is approximately 1.78%.
- Easy to manage online payment gateway:
 - All credit card payments are made via an online gateway (whether the payment is made at city hall or from another location). The current online gateway for

ITEM 4B

For 08-29-16

Board of Aldermen – Finance Committee Meeting

credit cards payments is difficult for city staff to manage. Changing the various credit card payment pages takes web coding experience. The Municipay online gateway is provides a customized drag and drop solution for city staff. Municipay also offers 24/7 support as needed.

- Removes burden of Payment Card Industry Data Security Standard (PCI-DSS) security reporting:
 - Currently, city staff must complete the annual PCI-DSS security reporting for all of the TSYS credit card accounts. This process is an involved reporting procedure that must be done once a year. This is difficult for staff because of the limited experience and the technical nature of the questions asked. Municipay will complete this security report on behalf of the city.
- Simplified Convenience Fee Model for Administration Fees:
 - Currently, a convenience fee is charged to administration transactions at tiered levels to cover account fees and processing fees (Attachment 1). Currently, all purchases up to \$200 have a \$2.50 convenience fee. For purchases over \$200 the percent generally ranges from 2.5% to 3.75% depending on the sale amount within the tier. This model is both inconvenient for staff to administer and difficult to explain to the customer. Additionally, it has not been totally effective at covering all account fees and processing fees (87% in 2015).
 - The Municipay model is a 2.45% or \$3.00 (whichever is greater) convenience fee per transaction with no account fees charged to the city. Most importantly, the city does not collect the convenience fee. The convenience fee is directly remitted to Municipay during the transaction process. As a result, there is no risk that the city will not cover the entirety of the processing fees associated with administrative sales via credit card. Note: A customer would need to make a payment of approximately \$125.00 or greater to go into the 2.45% range instead of paying the flat \$3.00 fee.
 - The current convenience fees are set forth in the Schedule of Fees adopted by the Board of Aldermen by resolution as authorized by Section 800.010 of the Municipal Code. If the recommendation is made to switch to Municipay, a resolution will be needed to update the Schedule of Fees (Attachments 2 and 3).
 - If the recommendation made to stay with TSYS, staff would recommend increasing the minimum credit card convenience fee to \$3.00 for all purchases up to \$200. This will help cover the uncovered cost of the account fees and processing fees.
- Customer support and EMV Chip Cards (Cards inserted into machine):

In the last year, customer support with TSYS has become problematic. TSYS has been virtually unresponsive to staff requests and questions regarding EMV chip cards. The law currently states that if a company offers an EMV chip card reader, the organization accepting the cards can be held liable for fraudulent charges if they choose not to use them. Staff knows TSYS has the readers, but has only been able to acquire one for the Municipal Court. Municipay does not yet have the EMV chip card readers and only uses card swipers. Therefore until Municipay switches to the card readers, the city would not be liable for a fraudulently swiped chip card.

Previously, staff also evaluated Transparent Payment Systems (TPS) as a card processing alternative. TPS delivers processing rates that are competitive, have a high standard for card security, and provide an online payment option. Regrettably, TPS remains unwilling to provide alternative options for convenience fee. Other options previously explored by city staff included credit card processing through Incode (the city's accounting software) and Summit (the city's sewer billing software). While these options integrate well with city software, they are primarily

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For 08-29-16

Board of Aldermen – Finance Committee Meeting

designed for specific high volume users and are more expensive per transaction as compared to other methods. The cost of the Incode software is an upfront fee of \$800, a licensing fee of \$1200 per year, and currently only allows for Municipal Court payments. The cost of the Summit Software is an upfront fee of \$2670, a licensing fee of \$500 per year, and only allows for online sewer payments. Additionally, the online Summit software still requires the city to use a separate processing agent (like TSYS or TPS) to process the transactions.

BUDGET IMPACT

Municipay offers 100% coverage of processing fees for the administration account at no cost to the city. Based on a three month cost comparison, there will be approximately 67.47% percent savings in court credit card fees with using Municipay over TSYS based on average volume and effective rate. This is an approximate yearly savings of \$1,254.78. Based on the same three month cost comparison, there will be approximately 26.96% percent savings in sewer credit card fees using Municipay over TSYS based on average volume and effective rate. This is an approximate yearly savings of \$970.16. For the sewer and court, there will be an initial investment of \$85 for a card swiper, an \$89 annual account fee (\$69 account fee, \$20 Annual PCI Compliance Support Fee), and a \$10 monthly account charge.

ALTERNATIVES

1. Select Nationwide Payment Solutions/Municipay to provide credit and debit card processing for City Hall and the Parkville Municipal Court and approve a resolution revising credit card convenience fees in the Schedule of Fees.
2. Direct city staff to remain with TSYS Merchant Solutions as the credit card provider at City Hall.
3. Select another vendor as the city's credit card processor.
4. Take other action to meet the desires of the Finance Committee.
5. Postpone the item.

STAFF RECOMMENDATION

Staff recommends that the Finance Committee recommend that the Board of Alderman approve the selection of Nationwide Payment Solutions/Municipay to provide credit and debit card processing for City Hall and the Parkville Municipal Court and approve a resolution revising credit card convenience fees in the Schedule of Fees.

POLICY

The Purchasing Policy (Resolution No. 02-01-13) requires a minimum of three quotes or proposals for most purchases.

SUGGESTED MOTION

I move that the Board of Alderman approve the selection of Nationwide Payment Solutions/Municipay to provide credit and debit card processing for City Hall and the Parkville Municipal Court and approve a resolution revising credit card convenience fees in the Schedule of Fees.

ATTACHMENTS:

1. Convenience Fee Tiered Structure
2. Draft Resolution
3. Revised Schedule of Fees
4. Application Documents with Nationwide Payment Solutions/Municipay (by reference; full application on file in City Clerk's Office)

Convenience fee on debit/credit purchases

Under \$200.....	\$2.50
\$200-\$400.....	\$10
\$400-\$1,000.....	\$25
\$1,000-\$2,000.....	\$50
\$2,000-\$3,000.....	\$75
\$3,000-\$4,000.....	\$100
\$4,000-\$5,000.....	\$125
\$5,000-\$6,000.....	\$150
\$6,000-\$7,000.....	\$175
\$7,000-\$8,000.....	\$200
\$8,000-\$9,000.....	\$225
\$9,000-\$10,000.....	\$250



**CITY OF PARKVILLE, MO.
RESOLUTION No. _____**

A RESOLUTION ESTABLISHING THE CREDIT CARD CONVENIENCE FEE AT \$3 OR 2.45% OF PURCHASE (WHICHEVER IS GREATER) EXCLUDING SEWER AND MUNICIPAL COURT AND THAT IT BE INCLUDED IN THE SCHEDULE OF FEES

WHEREAS, the City is authorized to assess and collect various fees and charges written into the Parkville Municipal Code, contained in uncodified ordinances, or passed by resolution; and

WHEREAS, the City finds that it is in the best interests of the City to consolidate the various fees and charges into a uniform Schedule of Fees that can be kept up to date as fees change by replacing entries as they are repealed or amended by resolution instead of amending the Parkville Municipal Code.

WHEREAS, the City signed an agreement with Nationwide Payment Solutions/Municipay for credit card processing services. Nationwide Payment Solutions/Municipay charges \$3 or 2.45% of purchase (whichever is greater) for credit card processing services. This fee will not be charged to sewer and municipal court charges.

NOW THEREFORE, BE IT RESOLVED that the Board of Aldermen hereby amends the schedule of fees attached as Exhibit A to include a revised convenience fee on debit/credit purchases.

IN TESTIMONY WHEREOF, I have hereunto set my hand, in the City of Parkville this 6th day of September 2016.

Mayor Nanette K. Johnston

ATTEST:

City Clerk Melissa McChesney



City of Parkville Schedule of Fees

The schedule of fees consolidates all City fees and charges, adopted by resolution and ordinance, for the various services the City provides.

City Parks and Events

Municipal Code Chapter 140

Special Events

Application (non-refundable, applies toward event fee).....	\$25
Public Park Event (per day).....	\$300
Parade Event (4 th of July and Parkville Days exempt).....	At cost
Public Property Event (per day).....	\$50
Private Property Event (per day).....	\$25
Event Support (City park or police employees, per hour).....	\$30

Shelter Reservations

Non-Peak Day (per 3 hours)

Residents.....	\$25
Non-Residents.....	\$35

Peak Day (per 3 hours)

Residents.....	\$50
Non-Residents.....	\$60

Maxine McKeon Stage (per day)

Residents.....	\$100
Non-Residents.....	\$125

English Landing River Stage (per day)

Residents.....	\$100
Non-residents.....	\$125

Baseball/Soccer Fields (per hour per field).....	\$20
Volleyball (per hour per court).....	\$20
Basketball Courts.....	No fee
Electrical Pedestal (per side)/Water Hookup.....	\$10
Distribution Panel.....	\$25

Municipal Court

Municipal Code Chapter 145

All cases (each case).....	\$12
Police Training Fund (each case).....	\$2
Other costs (issuance of warrant, commitment or summons, as provided before Associate Circuit Judge in criminal prosecutions).....	Actual cost
Assessed against City for defendant's apprehension or confinement in any prison facility.....	Actual cost
Mileage to serve warrant or commitment or Order of the Court (each mile and fraction thereof officer must travel both directions).....	Same as to Sheriff
Crime Victims Compensation Fund (RSMo 595.045.3).....	\$7.50
(Paid monthly to Missouri Department of Revenue, Tax Division)	
Sheriff's Retirement Fund Surcharge (RSMo 488.010-488.020).....	\$3
(Every case disposed of by a plea of guilty or a finding of guilty)	

Peace Officer Standards & Training Commission Fund.....	\$1
(Used statewide for training of peace officers; deposited with Treasurer of the State)	
Alcohol or drug-related traffic offenses	
Minimum upon guilty plea or finding of guilty for traffic offense associated with arrest of defendant (RSMo 577.048).....	\$100.50
Independent Living Center Fund (RSMo 178.653 and 561.035).....	\$5
Convicted or pleads guilty to intoxication-related traffic offense (RSMo 577.023) where judge in case was an attorney and defendant was represented by or waived right to attorney in writing; or drug-related offense (RSMo 195)	
Spinal Cord Injury Fund.....	\$25
(Paid to Missouri Department of Revenue)	
Optional cost for services, determined by court (RSMo 57.280-57.300).....	Varies
Synergy Services (RSMo 479.261).....	\$4

Police Department

Municipal Code Chapter 200

Fingerprints (per card).....	\$15
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Animal Regulations

Municipal Code Chapter 210

Dog License

Spayed/neutered.....	\$10
Not spayed/neutered.....	\$15
Duplicate Dog Tag.....	\$1
Late penalty.....	50% of fee

Impoundment of Licensed Dogs

First Offense.....	\$15
Second Offense.....	\$25
Third Offense.....	\$50
Subsequent Offenses.....	\$100
Redeem impounded dog (per day or fraction thereof).....	\$2

Building Permit, Plan Review and Inspection Fees

Municipal Code Chapter 500

Building Permit Fees

One- and two-family dwellings.....	See 2012 International Residential Code for One- and Two-Family Dwellings, Appendix L, Permit Fees
Other residential and non-residential	See 1997 Uniform Administrative Code, Tables 3-A, 3-B, 3-C and 3-D

Plan Review

One- and two-family dwellings

New residence construction.....	\$100
Other (minimum \$25, maximum \$100).....	25% of permit

Other residential and non-residential

New building construction.....	\$300
Tenant Finish	\$150
Minor Alteration	\$50
Other	\$25

Occupancy Inspections

Initial inspections (includes two inspections)	\$50
Re-inspections (each).....	\$25

Liquor Licenses

Municipal Code Chapter 600

Microbrewer

Up to 500 barrels.....	\$37.50
Each additional 100 barrels.....	\$7.50
Each 100 barrels below 500 (refund).....	-\$7.50
Retailer malt liquor original package	\$75
Retailer malt liquor by drink	\$75
Retailer intoxicating liquor original package.....	\$150
Sunday sales (additional).....	\$300
Resort.....	\$450
Sunday sales (additional).....	\$300
Temporary (3 months).....	\$93.75
Sunday sales (3 months, additional).....	\$75
Malt liquor/light wine by drink (only 7 days/year).....	\$37.50
Intoxicating liquor by drink on premises (only 501(c) exemptions).....	No fee
Intoxicating liquor by drink on boat/vessel.....	\$450
Wholesaler.....	\$375
Temporary Caterer Permit (per day).....	\$15
Tasting Permit.....	\$37.50
Retailer of intoxicating liquor by the drink, limited to distillers.....	\$375

General Licensing

Municipal Code Chapter 605

Business license (per year)

Any license not categorized below.....	\$50
General Contractor.....	\$75
Banks.....	\$320
Building or savings and loans.....	\$120
Fireworks.....	\$300
Rock Quarry.....	\$1,000
Late Fee (5% of license fee, not to exceed 25%).....	\$2.50/month

Peddlers, Solicitors and Canvassers

Municipal Code Chapter 610

Soliciting and Peddling Permit (30 consecutive days).....	\$50
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General Provisions

Municipal Code Chapter 800

Convenience fee on debit/credit purchases (<u>excludes sewer and court</u>).....	<u>\$3 or 2.45%</u>
<u>of purchase (whichever is greater)</u>	
<u>Under \$200.....</u>	<u>\$2.50</u>
<u>\$200 \$400.....</u>	<u>\$10</u>
<u>\$400 \$1,000.....</u>	<u>\$25</u>
<u>\$1,000 \$2,000.....</u>	<u>\$50</u>
<u>\$2,000 \$3,000.....</u>	<u>\$75</u>
<u>\$3,000 \$4,000.....</u>	<u>\$100</u>
<u>\$4,000 \$5,000.....</u>	<u>\$125</u>
<u>\$5,000 \$6,000.....</u>	<u>\$150</u>
<u>\$6,000 \$7,000.....</u>	<u>\$175</u>
<u>\$7,000 \$8,000.....</u>	<u>\$200</u>
<u>\$8,000 \$9,000.....</u>	<u>\$225</u>

	\$9,000
\$10,000.....	\$250

MERCHANT APPLICATION

New Ownership Change Tax ID Change Add'l Loc/MID #



DBA Name City of Parkville				Legal Name City of Parkville			
Location Address 8880 Clark Ave				Mailing Address 8880 Clark Ave			
City Parkville		State MO	Zip 64152	Mailing City Parkville		State MO	Zip 64152
Fed Tax ID #	Location Phone # 816-741-7676	Primary Contact Name Tim Blakeslee		Fax # 816-741-0013	Web Address www.parkvillemo.gov	Population ~6000	
Alternate Contact Name Matthew Chapman		Alternate Contact # 816-741-7676		Primary Email Address (required) for Reporting, Statements, and Notifications tblakeslee@parkvillemo.gov			

Ownership Type: Sole Proprietor Partnership Corporation Non-Profit (501c doc req) LLC Government
 Failure to submit a W9 tax form with accurate information will result in a \$50 penalty per tax year as well as a 28% withholding per IRS regulations. For more information on T.D. 9496 Merchant Reporting, please visit www.IRS.gov.

(AMOUNTS BELOW MUST EQUAL 100%)

CARD SWIPE (mag stripe) W/SIGNATURE	<u>25</u> %	Date Business Started _____	Prior Bankruptcy? Yes <input type="checkbox"/> No <input type="checkbox"/>
CARD PRESENT / KEY ENTERED W/SIGNATURE & IMPRINT	<u>25</u> %	Currently accept credit cards at this location or other business? Yes <input type="checkbox"/> No <input type="checkbox"/>	*Seasonal? Yes <input type="checkbox"/> No <input type="checkbox"/> *\$25 seasonal shutdown fee applies
MAIL/TELEPHONE SALES (MOTO/IO ADDENDUM REQUIRED)	<u>25</u> %	Are customers req'd to pay deposits? Yes <input type="checkbox"/> No <input type="checkbox"/> What % of sales? _____	# days product/service shipped/comple? (from time credit card is charged):
INTERNET/E-COMM SALES (MOTO/IO ADDENDUM REQUIRED)	<u>25</u> %	<input type="checkbox"/> 0-2 days <input type="checkbox"/> 3-15 days <input type="checkbox"/> >30 days <input type="checkbox"/> 16-30 days *Annual Volume: \$ 100000 *Average Ticket: \$ 100 *High Ticket: \$ 20000	

Describe Products / Service in Detail - use cover sheet if more space is needed

Refund Policy: All Sales Final # of days _____ Exchange Only

Describe High Ticket in Detail: _____ Permit Fee Payment _____

***NOTE: Signer certifies that the average/high ticket, annual volume & business profile indicated is accurate. Signer further agrees that any transactions and/or volume that exceeds the amounts indicated above OR any significant profile or financial changes may result in delayed and/or withheld settlement of funds. Notifying NPS in advance will help avoid such delays.*

OWNER OR OFFICER INFORMATION (combined equity must equal 50% or higher) - ALL FIELDS ARE REQUIRED

1 (First Name) Nan	(Last Name) Johnston	(SS#) NA	(DOB) NA	(Home Phone #) NA	(Equity %) NA
(Home Address / No P.O. Box) NA		(City) NA	(State) NA	(Zip) NA	
2 (First Name)	(Last Name)	(SS#)	(DOB)	(Home Phone #)	(Equity %)
(Home Address / No P.O. Box)		(City)	(State)	(Zip)	

MEMBER BANK INFORMATION: Deutsche Bank AG, New York Branch, 60 Wall Street, 36th Floor, New York, New York 10005 +49 221 99577 777 support.deucs.db.com

IMPORTANT MEMBER BANK RESPONSIBILITIES 1. A Visa Member is the only entity approved to extend acceptance of Visa products directly to a merchant. 2. A Visa Member must be a principal (signer) to the Merchant Agreement. 3. The Visa Member is responsible for educating Merchants on pertinent Visa Operating Regulations with which merchants must comply. 4. The Visa Member is responsible for and must provide settlement funds to the merchant. 5. The Visa Member is responsible for all funds held in reserve that are derived from the settlement.	IMPORTANT MERCHANT RESPONSIBILITIES 1. Merchant must ensure compliance with cardholder data security and storage requirements. 2. Merchant must maintain fraud and chargebacks below thresholds. 3. Merchant must review and understand the terms of the Merchant Agreement. 4. Merchant must comply with Visa Operating Regulations. The responsibilities listed above do not supersede terms of the Merchant Agreement and are provided to ensure the merchant understands these specific responsibilities.
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Cardholder Storage Compliance and Service Provider

**** Payment Card Industry Data Security Standards ("PCI DSS") and card association rules prohibit storage of track data under any circumstances. If you or your Point of Sale ("POS") system pass, transmit, store or receive full cardholder's data, then the POS software must be Payment Application Data Security Standard ("PA DSS") compliant or you (merchant) must validate PCI DSS compliance (see #1(b) below and questions #3 and #4 must be completed). If you use a payment gateway, they must be PCI DSS compliant.****

#1. Have you ever experienced an Account Data Compromise ("ADC")? Yes No If yes, please provide the date of compromise: _____

a) Have you validated PCI DSS Compliance? Yes No If yes, go to 1.(b); if no, go to #2

b) Date of compliance, Report on Compliance ("ROC") or Self Assessment Questionnaire ("SAQ"): NA

c) What is the name of your Qualified Security Assessor ("QSA")? NA or SAQ (circle or check one): A, B, C, or D

d) Date of last scan: _____ Approved Scanning Vendor's Name: _____

#2. Are you using a "dial-up" terminal or Touch Tone Capture ("TTC")? Yes No

#3. Do you or your Service Provider(s) receive, pass, transmit, or store the Full Cardholder Number ("FCN"), electronically? Yes No a) if yes, where is card data stored?
 Merchant's Location Only Primary Service Provider Other Service Provider: _____ Merchant's Headquarters/Corp office only Both Merchant and Service Provider(s) All Apply

#4. What Primary Service Provider/Software Developer did you purchase your POS Application from (i.e., software, gateway)? MunicipiPAY

a) What is the name of the Service Provider/Software Developer's application? MunicipiPAY Software Version #: _____

b) Do your transactions process through any other Service Provider (i.e., web hosting companies, gateways, corporate office)? Yes No c) If yes, name other Service Provider: _____

MERCHANT SITE SURVEY REPORT (to be completed by Sales Professional):

Merchant Location: Retail Storefront Office Building Residence Government

Area Zoned: Commercial Industrial Residential

The Merchant: Owns Leases the location

Landlord Name & contact number: _____ Is inventory/merchandise amount consistent with this type of business? Y N

By signing below, I hereby confirm that the information on this application is true and correct as the merchant applicant has described and that I have verified the identity of the business, its owners and the signer(s) of this application. I further confirm that I have physically inspected the business premises at the location address stated above.

 (Sales Professional Name and ID #) (Strategic Partner/Affiliate ID #) X (Sales Professional Signature) (Date)

BILLING & PRICING INFORMATION - SCHEDULE OF CONVENIENCE FEES

				APPLICABLE FEES	
<input checked="" type="checkbox"/> Over-the-Counter, Phone, Mail		<input checked="" type="checkbox"/> Ecommerce Transactions		Initial MuniPAY Set Up Fee	\$0
Visa/MasterCard/Discover Transactions	2.45%	Visa/MasterCard/Discover Transactions	2.45%	Monthly Software/Gateway Fee (per month per Master-MID)	\$0
American Express Transactions	2.45%	American Express Transactions	2.45%	All Convenience Fee Transactions have a \$3.00 minimum transaction charge	
Signature Debit Transactions	2.45%	<input checked="" type="checkbox"/> Echeck Transactions	\$1.50 per check		

MuniPAY Agreement

MuniPAY Special Terms and Conditions. The following terms and conditions shall serve as an agreement between Nationwide Payment Solutions LLC ("NPS") and the Government Entity ("GE") listed on page 1 of the NPS Merchant Agreement. These terms and conditions shall be in addition to but not serve as any replacement to any existing terms of the Nationwide Payment Solutions Merchant Agreement.

1. PCI-DSS Security. Both MuniPAY and Nationwide Payment Solutions meet or exceed all PCI DSS guidelines and requirements for the storage and transmission of cardholder data. NPS is a certified Level 1 PCI DSS service provider. GE agrees not to store any sensitive credit card data.

2. Optional Cardholder Convenience Fee Program. GE understands that NPS has authorized GE to accept credit cards. In order to waive processing fees for GE, NPS is required to charge a Convenience Fee to the cardholder at the time of transaction. GE agrees to meet all the requirements established by the Card Associations in order to allow a Convenience Fee to be charged. NPS may deny/decline transactions that do not qualify for a Convenience Fee per the rules and regulations of the Card Associations. NPS agrees to offer cardholders competitive Convenience Fees based upon the annual processing activity generated from each GE. NPS reserves the right to modify the amount of this Convenience Fee depending upon the costs which NPS incurs to process such transactions, industry trends and/or card association rules. In the event of a change, NPS shall provide Municipality with 30 days notice of such change.

3. Disclosure & Opt Out of Convenience Fee. GE understands that a cardholder has a right to opt out of a Convenience Fee transaction at the time of sale. GE agrees to disclose to the cardholder(s) the amount of the calculated Convenience Fee at the time of transaction (MuniPAY will automatically calculate fee) and give the option for the cardholder to cancel the payment and accept another form of payment (cash, checks etc.).

4. Transaction Receipt(s) - Mail/Telephone/Internet Transactions

4a. Face to Face Transactions: GE understands cardholders will be required to sign separately for the NPS Convenience Fee and the transaction amount(s) due to GE. GE agrees to maintain a copy of transaction receipts for a minimum of 18 months per the Card Association regulations. GE further agrees to provide NPS a timely copy of such receipt(s) in the event it is requested.

4b. Phone Transactions: GE understands that each transaction which is processed over the telephone shall require GE to disclose the Third Party Convenience fee being assessed for the completion of the transaction prior to charging the cardholder's credit card. The Cardholder has the right to opt out of the transaction, per the Card Association rules regarding Convenience Fees. GE agrees to print a receipt for phone order transactions and to write in *Phone Order* on the signature line for both the NPS convenience fee and GE transaction(s).

4c. Internet Transactions: MuniPAY's secure e-commerce interface shall disclose to the Cardholder any Third Party Convenience fees being assessed prior to charging the Cardholder's credit card. Such disclosure shall give the cardholder the right to "Opt-out" of the transaction per card association rules. NPS shall automatically initiate an email receipt to the Cardholder for each completed transaction.

5. Internet Sale Items/Default Pricing

GE understands that by using the MuniPAY e-commerce processing solution, it has authorized NPS to post any set default pricing and payment items as indicated by the GE. GE agrees that it is the responsibility of the GE to notify the MuniPAY Support Center of any changes to default pricing and/or payment items displayed.

6. Card Holder Disputes/Convenience Fee Indemnification. GE agrees that any disputes between GE and a Cardholder relating to a transaction funded directly to the GE shall be settled between GE and the Cardholder directly. NPS shall assist GE in settling these disputes. GE understands that such disputes can result in a cardholder issued "chargeback" to GE based on Card Association rules and regulations. Chargeback(s) can be avoided by settling disputes with the Cardholder directly or issuing a refunded transaction. NPS will provide details of such "chargeback(s)" including Cardholder name and transaction details. Such chargeback disputes may require GE to provide a copy of the signed credit card receipt. GE will hold no liability nor be debited any chargeback for a Convenience Fee amount.

7. Equipment Use Provision. At NPS' sole discretion, NPS may provide GE the use of certain hardware related to the use of MuniPAY. GE further agrees that any and all hardware provided by NPS shall remain the property of NPS. GE agrees to return all hardware to NPS no later than 30 days from end of service. Failure to return such hardware shall result in GE being assessed a fee for the value of each piece of hardware provided.

By signing below, I have read and understand the terms and conditions above and understand that these terms shall be in addition to my NPS Merchant Application/Agreement, including but not limited to the terms and conditions of such NPS merchant agreement.

Signature: _____

Print Name: _____

Title: _____

Date: _____

ACKNOWLEDGEMENT & AGREEMENT (required)

ACKNOWLEDGEMENT & AGREEMENT (required) INVESTIGATIVE CONSUMER REPORT: An investigative or consumer report may be made in connection with application. MERCHANT authorizes any party to the Agreement or any of its agents to investigate the references provided or any other statements or data obtained from MERCHANT, from any of the undersigned, or from any other person or entity with any financial obligations under this Agreement. You have a right, upon written request, to a complete and accurate disclosure of the nature and scope of the investigation requested. **CORPORATE RESOLUTION.** The indicated officer (s) identified below have the authorization to execute the Merchant Processing Agreement on behalf of the here within named corporation. Merchant understands that this agreement shall not take effect until merchant has been approved by bank and a merchant number has been issued. **IMPORTANT NOTICE:** All information contained in this application was completed or supplied by all contracting parties. Any change in printed terms shall be of absolutely no force or effect unless specifically agreed to in writing by all contracting parties. By signing below on either the original or a facsimile you are agreeing to the provisions stated within the Terms and Conditions of the Merchant Processing Agreement and the Merchant Application on the reverse side, and you are acknowledging that you have carefully read each of those provisions before signing. **BY SIGNING BELOW,** either on the original or a fax you are agreeing to the provisions stated within the terms & conditions of this merchant application and you are acknowledging that you both received a copy of and have carefully read each of these provisions within the attached 3 page Merchant Processing Terms & Agreement before signing below.

(Signature #1)

(Date)

(Date)

(Signature # 2)

(Date)

Merchant Processing Terms and Agreement

This document, "Merchant Processing Agreement" (the "Agreement"), accompanies the document "Merchant Application" ("Merchant Application") and includes the Terms and Conditions set forth below (the "Terms and Conditions") together with the terms and conditions of the Merchant Application. The bank ("Bank") identified in this Agreement is a member of Visa USA, Inc. ("Visa") and MasterCard International, Inc. ("MasterCard"), and is Deutsche Bank AG, New York branch. EVO Merchant Services, LLC d/b/a EVO ("Processor") is a registered independent sales organization of Visa and a member service provider of MasterCard. This Agreement is between Processor and Bank, and the merchant (or "you") identified in the Merchant Application ("Merchant"). Merchant and Processor agree that the rights and obligations contained in this Agreement do not apply to Bank with respect to Discover transactions. To the extent Merchant accepts Discover cards, the provisions in this Agreement with respect to Discover apply if Merchant does not have a separate agreement with Discover. In such case, Merchant will also be enabled to accept JCB and Diner's Club cards under the Discover network and such transactions will be processed at the same fee rate as Merchant's Discover transactions are processed. Any references to the Debit Sponsor shall refer to the debit sponsors identified below.

RECITALS

Merchant desires to accept credit cards ("Cards") validly issued by members of Visa, MasterCard, and Discover. Bank and Processor desire to provide credit card processing services to Merchant. Therefore, Merchant, Processor and Bank agree as follows:

TERMS AND CONDITIONS

1. Honoring Cards.

A. **Without Discrimination.** You will honor, without discrimination, any Card properly tendered by a Cardholder. "Cardholder" means a person possessing a Card and purporting to be the person in whose name the Card is issued. You will not establish a minimum or maximum transaction amount as a condition for honoring a Card.

B. **Cardholder Identification.** You will identify the Cardholder and check the expiration date and signature on each Card. You will not honor any Card if: (i) the Card has expired, (ii) the signature on the sales draft does not correspond with the signature on the Card, or (iii) the account number embossed on the Card does not match the account number on the Card's magnetic strip (as printed in electronic form) or the account number listed on a current Electronic Warning Bulletin file. You may not require a Cardholder to provide personal information, such as a home or business telephone number, a home or business address, or a driver's license number as a condition for honoring a Card unless permitted under the Laws and Rules (defined in Section 14, below).

C. **Card Recovery.** You will use your best efforts to retain any Card: (i) on Visa Cards if the printed four digits below the embossed account number do not match the first four digits of the embossed account number; (ii) if you are advised by Processor or Bank (as a designee) the issuer of the Card or the designated voice authorization center to retain it; (iii) if you have reasonable grounds to believe the Card is counterfeit, fraudulent or stolen, or not authorized by the Cardholder; or (iv) if, for MasterCard Cards, the embossed account number, indent printed account number and encoded account number do not match or the Card does not have a MasterCard hologram on the lower right corner of the Card face.

D. **Surcharges.** You will not add any amount to the posted price of goods or services you offer as a condition of paying with a Card, except as permitted by the Rules. This paragraph does not prohibit you from offering a discount from the standard price to induce a person to pay by cash, check or similar means rather than by using a Card.

E. **Return Policy.** You will properly disclose to the Cardholder, at the time of the Card transaction and in accordance with the Rules, any limitation you have on accepting returned merchandise.

F. **No Claim Against Cardholder.** You will not have any claim against or right to receive payment from a Cardholder unless Processor and Bank refuse to accept the Sales Draft (as defined in Section 3) or revokes a prior acceptance of the Sales Draft after receipt or a chargeback or otherwise. You will not accept any payments from a Cardholder relating to previous charges for merchandise or services included in a Sales Draft, and if you receive any such payments you promptly will remit them to Processor and Bank.

G. **Disputes With Cardholders.** All disputes between you and any Cardholder relating to any Card transaction will be settled between you and the Cardholder. Neither Processor nor Bank bear any responsibility for such transactions.

2. Authorization.

A. **Required on All Transactions.** You will obtain a prior authorization for the total amount of a transaction via electronic terminal or device before completing any transaction, and you will not process any transaction that has not been authorized. You will follow any instructions received during the authorization process. Upon receipt of authorization you may consummate only the transaction authorized and must note on the Sales Draft the authorization number. Where authorization is obtained, you will be deemed to warrant the true identity of the customer as the Cardholder.

B. **Effect.** Authorizations are not a guarantee of acceptance or payment of the Sales Draft. Authorizations do not waive any provisions of this Agreement or otherwise validate a fraudulent transaction or a transaction involving the use of an expired Card.

C. **Unreadable Magnetic Stripes.** When you present Card transactions for authorization electronically, and if your terminal is unable to read the magnetic stripe on the card, you will obtain an imprint of the card and the Cardholder's signature on the imprinted draft before presenting the Sales Draft to Processor and Bank for processing. Failure to do so may result in the assessment of a transaction surcharge on non-qualifying transactions.

3. Presentation of Sales Drafts.

A. **Form.** You will use a Sales Draft ("Sales Draft") or other form approved by Processor and Bank to document each Card transaction. Each Sales Draft will be legibly imprinted with: (i) Merchant's name, location and account number; (ii) the information embossed on the Card presented by the Cardholder (either electronically or manually); (iii) the date of the transaction; (iv) a brief description of the goods or services involved; (v) the transaction authorization number; (vi) the total amount of the sale including any applicable taxes, or credit transaction; and (vii) adjacent to the signature line, a notation that all sales are final, if applicable.

B. **Signatures.** Each Sales Draft must be signed by the Cardholder unless the Card transaction is a valid mail/telephone order Card transaction which fully complies with the requirements set forth in this Agreement. You may not require the Cardholder to sign the Sales Draft before you enter the final transaction amount in the Sales Draft.

C. **Reproduction of Information.** If the following information is not legibly imprinted on the Sales Draft, you will legibly inscribe on the Sales Draft before submitting it to Processor and Bank: (i) the Cardholder's name; (ii) account number; (iii) expiration date of the Card and (iv) the Merchant's name and place of business. Additionally, for MasterCard transactions you will legibly inscribe the name of the bank issuing the Card as it appears on the face of the Card.

D. **Delivery and Retention of Sales Drafts.** You will deliver a complete copy of the Sales Draft or credit voucher to the Cardholder at the time of the transaction. You will retain the "merchant copy" of the Sales Draft or credit memorandum for at least 3 years following the date of completion of the Card transaction (or such longer period as the Rules require).

E. **Electronic Transmission.** In using electronic authorization and/or data capture services, you will enter the data related to a sales or credit transaction into a computer terminal or magnetic stripe reading terminal no later than the close of business on the date the transaction is completed (unless otherwise permitted by the Rules). Failure to do so may result in the assessment of a transaction surcharge on non-qualifying transactions and, at Processor's sole discretion, the deposit of the funds received for such sales or credit transaction into the Reserve Account. If you provide your own electronic terminal or similar device, such terminal must meet Processor and Bank's requirements for processing transactions. Information regarding a sales or credit transaction transmitted with a computer or magnetic stripe reading terminal will be transmitted by you to Processor and Bank or their agent in the form Processor and Bank from time to time specify or as required under the Rules. If Processor or Bank requests a copy of a Sales Draft, credit voucher or other transaction evidence, you will provide it within 24 hours following the request.

4. Deposit of Sales Drafts and Funds Due Merchant.

A. **Deposit of Funds.** i. Deposits. You agree that this Agreement is a contract of financial accommodation within the meaning of the Bankruptcy Code, 11 U.S.C. § 365 as amended from time to time. Subject to this Section, Bank will deposit to the Designated Account (defined in section 6 below) funds evidenced by Sales Drafts (whether evidenced in writing or by electronic means) complying with the terms of this Agreement and the Rules and will provide you provisional credit for such funds (less recoupment of any credit(s), adjustments, fines, chargebacks, or fees). You shall not be entitled to credit for any indebtedness that arises out of a transaction not processed in accordance with the terms of this Agreement or the rules and regulations of a card association or network organization. You acknowledge that your obligation to Processor and Bank for all amounts owed under this Agreement arises out of the same transaction as Processor and Bank's obligation to deposit funds to the Designated Account. ii. Provisional Credit. Notwithstanding the previous sentences, under no circumstance will

Processor or Bank be responsible for processing credits or adjustments related to Sales Drafts not originally processed by Processor and Bank. All Sales Drafts and deposits are subject to audit and final checking by Processor and Bank, and may be adjusted for inaccuracies. You acknowledge that all credits provided to you are provisional and subject to chargebacks, recoupment, adjustments, fines and fees: (i) in accordance with the Rules; (ii) for any of your obligations to Processor and Bank; and (iii) in any other situation constituting suspected fraud or a breach of this Agreement, whether or not a transaction is charged back by the Card issuer. Processor and Bank may elect, but are not required, to grant conditional credit for individual or groups of any funds evidenced by Sales Drafts. Final credit for those conditional funds will be granted within Processor and Bank's sole discretion. iii. Processing Limits. Processor and Bank may impose a cap on the volume and ticket amount of Sales Drafts that they will process for you, as indicated to you by Processor or Bank. This limit may be changed by Processor or Bank upon written notice to you.

B. **Chargebacks.** You are fully liable for all transactions returned for whatever reason, otherwise known as "chargebacks." You will pay on demand the amount of all chargebacks. Authorization is granted to offset from incoming transactions and to debit the Designated Account, the Reserve Account (defined in Section 7, below) or any other account held at Bank or at any other financial institution the amount of all chargebacks. You will fully cooperate in complying with the Rules regarding chargebacks.

C. **Excessive Activity.** Your presentation to Processor and Bank of Excessive Activity will be a breach of this Agreement and cause for immediate termination of this agreement. "Excessive Activity" means, during any monthly period: (i) the dollar amount of chargebacks and/or retrieval requests in excess of 1% of the average monthly dollar amount of your Card transactions; (ii) sales activity that exceeds by 10% of the dollar volume indicated on the Application; or (iii) the dollar amount of returns equals 20% of the average monthly dollar amount of your Card transactions. You authorize, upon the occurrence of Excessive Activity, Processor and Bank to take any action they deem necessary including but not limited to, suspension of processing privileges and establishment or increase in the amount allocated to the Reserve Account and a reduction in the amount of provisional credit remitted to you in accordance with this Agreement.

D. **Credit.** i. Credit Memoranda. You will issue a credit memorandum in any approved form, instead of making a cash advance, a disbursement or a refund on any Card transaction. Processor and Bank will debit the Designated Account for the total face amount of each credit memorandum submitted to Processor and Bank. You will not submit a credit memorandum relating to any Sales Draft not originally submitted to Processor and Bank, nor will you submit a credit memorandum that exceeds the amount of the original Sales Draft. You will within the time period specified by the Rules, provide a credit memorandum or credit statement for every return of goods or forgiveness of debt for services which were the subject of a Card transaction. ii. Revocation of Credit. Processor or Bank may refuse to accept any Sales Draft, and Processor and Bank may revoke prior acceptance of a Sales Draft in the following circumstances: (a) the transaction giving rise to the Sales Draft was not made in compliance with this Agreement, the Laws or the Rules; (b) the Cardholder disputes its liability to Processor and Bank for any reason, including but not limited to a contention that the Cardholder did not receive the goods or services, that the goods or services provided were not as ordered, or those chargeback rights enumerated in the Rules; or (c) the transaction giving rise to the Sales Draft was not directly between you and the Cardholder. You will pay Processor and Bank any amount previously credited to you for a Sales Draft not accepted by Processor and Bank or where accepted, is revoked by Processor and Bank.

E. **Reprocessing.** Notwithstanding any authorization or request from a Cardholder, you will not re-enter or reprocess any transaction which has been charged back.

F. **Miscellaneous.** You will not present for processing or credit, directly or indirectly, any transaction not originated as a result of a Card transaction directly between you and a Cardholder or any transaction you know or should know to be fraudulent or not authorized by the Cardholder. You will not sell or disclose to third parties Card account information other than in the course of performing your obligations under this Agreement.

5. Other Types of Transactions.

A. **Debit Card Processing Services.** You may elect to accept debit cards, and said election should be made by you on the accompanying Merchant Application. If you elect to accept debit cards, the following terms and conditions apply to you. Debit Sponsor shall act as your sponsor with respect to the participation of point-of-sale terminal card networks ("Networks"): Acel, AFFN, Alaska Option, Interlink, Maestro, NYCE, Pulse, Shazam, Star, CU24, and Tyme, which Networks may be changed from time-to-time by Debit Sponsor or Processor without notice. You may also have access to other debit networks that do not require a sponsor. Processor will provide you with the ability to access the Networks at the Covered Terminals for the purpose of authorizing debit card transactions from cards issued by the members of the respective Networks, and Processor will provide connection to such Networks, terminal applications, settlement, and reporting activities (collectively, the "Services"). You will comply with all federal, state, and local laws, rules, regulations and ordinances ("Applicable Laws") and with all by-laws, regulations, rules, and operating guidelines of the Networks ("Network Rules"). You will execute and deliver any application, participation, or membership agreement or other document necessary to enable Debit Sponsor to act as sponsor for you in each Network, and you shall obtain all consents, approvals, authorizations, or orders of any governmental agency or body required for the execution, delivery, and performance of this Agreement. You agree to utilize the debit card services in accordance with this Agreement, its exhibits or attachments, and Processor's instructions and specifications, and to provide Processor with the necessary data in the proper format to enable Processor to properly furnish the Services. Copies of the relevant agreements or operating regulations shall be made available to you upon request. You will provide prompt written notice to Processor in the event that you are subject to any of the following: i. Conviction for a felony offense or any other crime involving moral turpitude; ii. Restraining order, decree, injunction, or judgment in any proceeding or lawsuit alleging fraud or deceptive practice on your part; iii. Bankruptcy filing or petition; iv. Federal or state tax lien; v. Any material adverse change in your assets, operations, or condition, financial or otherwise; vi. The threat or filing of any litigation against you, the outcome of which reasonably could have a material adverse effect on your continuing operations; vii. Administrative or enforcement proceeding commenced by any state or federal regulatory agency, including any banking or securities agency or entity operating an EBT Network, that reasonably could have a material adverse effect on your continuing operations; or viii. Any disciplinary action taken by any Network against you or any of your principals. Processor may terminate or suspend in its discretion Debit Sponsor's sponsorship of you in any Network or modify the provision of Services to you; i. (i), (ii), (v), or (viii) in the immediately preceding paragraph or if Debit Sponsor's authority to participate in such Network or act as your sponsor in such Network is terminated by such Network; ii. Thirty (30) days after written notice by Processor to you of the occurrence of any of the conditions set forth in items (iv), (vi), or (vii) in the immediately preceding paragraph or if Debit Sponsor terminated its membership or participation in such Network; iii. Immediately upon notice to you in the event any financial statement, representation, warranty, statement or certificate furnished is materially false or misleading; or iv. Immediately upon notice to you of the occurrence of any other circumstance with respect to this Section that may reasonably be expected to have an adverse effect on Processor. The parties hereto acknowledge and agree that Processor shall pay Debit Sponsor any and all fees related to Debit Sponsor's sponsorship of you in the Networks; provided, however, that in the event Processor fails to pay such amounts, Debit Sponsor shall be entitled to recover all such amounts directly from you and you agree to pay all such amounts. You shall not in any way indicate that Debit Sponsor endorses your activities, products, or services. Debit Sponsor and you are and shall remain independent contractors of one another, and neither they, nor their respective individual employees, shall have or hold themselves out as having any power to bind

the other to any third party. Nothing contained in this section shall be construed to create or constitute a partnership, joint venture, employer-employee, or agency relationship between Debit Sponsor and you. You shall indemnify and hold harmless Processor and its affiliates (including parents and subsidiaries), and their respective officers, directors, employees, successors and assigns, from and against any and all direct or contingent losses, costs, claims, demands, and causes of action (including, without limitation, the cost of investigating the claim, the cost of litigation, and reasonable attorney's fees including those of in-house counsel, whether or not legal proceedings are instituted) paid or incurred by or on behalf of Processor as a result of your violation of any of the terms of this Section, Network Rules, or Applicable Laws, or otherwise arising from or related to Debit Sponsor's sponsorship of you in any Network. In the event that Debit Sponsor's sponsorship of you in any Network is terminated prior to the termination of this Agreement, Processor may assign Debit Sponsor's rights and obligations hereunder to a third party. All provisions in this section necessary to enforce the rights and obligations of the parties contained in this section shall survive the termination of Debit Sponsor's debit sponsorship of you under this Agreement.

B. **Mail/Telephone Order.** Processor and Bank caution against mail orders or telephone orders or any transaction in which the Cardholder and Card are not present ("mail/telephone orders") due to the high incidence of customer disputes. You will obtain the expiration date of the Card for a mail/telephone order and submit the expiration date when obtaining authorization of the Card transaction. For mail/telephone order transactions, you will type or print legibly on the signature line the following as applicable: telephone order or "TO" or mail order or "MO". You must promptly notify Processor and Bank if your retail/mail order/telephone order mix changes from the percentage represented to Processor and Bank in the Merchant Application. Processor and Bank may cause accepting mail/telephone order transactions, or limit their acceptance of such transactions, or increase their fees if this mix changes. Bank will release funds to Merchant five (5) business days after the transaction date for mail/telephone orders. Merchant agrees to use and retain proof of a traceable delivery system as means of shipment of product to the customer. Merchant agrees that transactions will not be processed until products are shipped to the Cardholder. Merchant agrees to pay a charge of \$0.05 per AVS transaction, if applicable. This agreement may be immediately terminated by Bank if Merchant fails to comply with any of the terms of the agreement.

C. **Recurring Transactions.** For recurring transactions, you must obtain a written request from the Cardholder for the goods and services to be charged to the Cardholders account, the frequency of the recurring charge, and the duration of time during which such charges may be made. You will not complete any recurring transaction after receiving: (i) a cancellation notice from the Cardholder, (ii) notice from Processor or Bank, or (iii) a response that the Card is not to be honored. You must print legibly on the Sales Draft the words "Recurring Transaction".

D. **Multiple Sales Drafts.** You will include a description and total amount of goods and services purchased in a single transaction on a single Sales Draft or transaction record, unless (i) partial payment is entered on the Sales Draft or transaction record and the balance of the transaction amount is paid in cash or by check at the time of transaction, or (ii) a Sales Draft represents an advance deposit in a Card transaction completed in accordance with this Agreement and the Rules.

E. **Partial Completion.** i. Prior Consent. You will not accept for payment by Card any amount representing a deposit or partial payment for goods or services to be delivered in the future without the prior written consent of Processor or Bank. Such consent will be subject to Bank's final approval. The acceptance of a Card for payment or partial payment of goods or services to be delivered in the future without prior consent will be deemed a breach of this Agreement and cause for immediate termination, in addition to any other remedies available under the Laws or Rules. ii. Acceptance. If you have obtained prior written consent, then you will complete such Card transactions in accordance with the terms set forth in this Agreement, the Rules, and the Laws. Cardholders must execute one Sales Draft when making a deposit with a Card and a second Sales Draft when paying the balance. You will note upon the Sales Draft the words "deposit" or "balance" as appropriate. You will not deposit the Sales Draft labeled "balance" until the goods have been delivered to Cardholder or you have fully performed the services.

F. **Future Delivery.** You will not present any Sales Draft or other memorandum to Bank for processing "whether by electronic means" which relate to the sale of goods or services for future delivery without Processor or Bank's, prior written authorization. Such consent will be subject to Bank's final approval. If Processor or Bank have given such consent, you represent and warrant to Processor and Bank that you will not rely on any proceeds or credit resulting from such transactions to purchase or furnish goods or services. You will maintain sufficient working capital to provide for the delivery of goods or services at the agreed upon future date, independent of any credit or proceeds resulting from sales drafts or other memoranda taken in connection with future delivery transactions.

G. **Electronic Commerce Transactions.** You may process electronic commerce ("EC") transactions only if you have so indicated on the Application, and only if you have obtained Processor's consent. If you submit EC transactions without our consent, we may immediately terminate this Agreement. If you have indicated on the Application that you will be submitting EC transactions, you acknowledge that you have reviewed the Payment Card Industry Data Security Standards (PCI DSS), Visa's Cardholder Information Security Program (CISP) and MasterCard's Site Data Protection Program (SDP), and to the extent that they apply to you, you agree to comply with, and ensure such transactions comply with, the terms of each. You understand that transactions processed via EC are high risk and subject to a higher incidence of chargebacks. You are liable for all chargebacks and losses related to EC transactions, whether or not: i) EC transactions have been encrypted; and ii) you have obtained consent to engage in such transactions. Encryption is not a guarantee of payment and will not waive any provision of this Agreement or otherwise validate a fraudulent transaction. All communication costs related to EC transactions are your responsibility. You understand that Processor will not manage the EC telecommunications link and that it is your responsibility to manage that link. All EC transactions will be settled by Bank into a depository institution of the United States in U.S. currency. i. Requirements. For goods to be shipped on EC transactions, you may obtain authorization up to 7 calendar days prior to the shipment date. You need not obtain a second authorization if the Sales Draft amount is within 15% of the authorized amount, provided that the additional amount represents shipping costs. Further, your web site must contain all of the following information: i) complete description of the goods or services offered; ii) returned merchandise and refund policy; iii) customer service contact, including electronic mail address and/or telephone number; iv) transaction currency (such as U.S. or Canadian dollars); v) export or legal restrictions, if known; and vi) delivery policy. If you store cardholder account numbers, expiration dates, and other personal cardholder data in the database, you must follow PCI DSS, CISP and SDP guidelines on securing such data. ii. If you accept EC transactions, you must: install and maintain a working network firewall to protect data accessible via the Internet; keep security patches up-to-date; encrypt stored data and data sent over open networks; use and update anti-virus software; restrict access to data by business "need-to-know"; assign a unique ID to each person with computer access to data; not use vendor-supplied defaults for system passwords and other security parameters; track access to data by unique ID; regularly test security systems and processes; maintain a policy that addresses information security for employees and contractors; and restrict physical access to Cardholder information. When outsourcing administration of information assets, networks, or data you must retain legal control of proprietary information and use limited "need-to-know" access to such assets, networks or data. Further, you must reference the protection of cardholder

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information and compliance with the PCI DSS, CISP and SDP Rules in contracts with other service providers. You understand that failure to comply with this Section may result in fines and you agree to indemnify and reimburse Processor and Bank immediately for any fine imposed due to your breach of this Section.

H. American Express, JCB and Diners Club Transactions. Upon your request, Processor will provide authorization and/or data capture service, for JCB, Diners Club and American Express transactions. By signing this Merchant Agreement, Merchant agrees to abide by the terms and conditions of Diners Club, American Express, and JCB. Merchant understands that the Diners Club Agreement will be sent to the business entity indicated on this application. By accepting the Diners Club Card for goods and/or services, Merchant agrees to be bound by the terms and conditions of the Agreement. Processor and Bank are not responsible for funding such transactions. Initial setup fees may apply.

I. Cash Advances. You will not deposit any transaction for purposes of obtaining or providing a cash advance. You agree that any such deposit shall be grounds for immediate termination.

J. Prohibited Transactions. You will not accept or deposit any fraudulent or illegal transaction and you may not, under any circumstances, present for deposit directly or indirectly, a transaction which originated with any other merchant or any other source. You will not, under any circumstance, deposit telemarketing transactions unless you obtain Bank, Processor prior written consent. Such consent will be subject to Bank's final approval. If you process any such transactions, you may be immediately terminated and Processor or Bank may hold funds and/or increase the amount allocated to the Reserve Account and/or deduct from the amount of provisional credit that would otherwise be allocated to you. Further, you may be subject to Visa, MasterCard or Discover reporting requirements.

6. Designated Account.

A. Establishment and Authority. Merchant will establish and maintain an account at an ACH receiving depository institution approved by Bank and Processor ("Designated Account"). Merchant will maintain sufficient funds in the Designated Account to satisfy all obligations, including fees, contemplated by this Agreement. Merchant irrevocably authorizes Bank and Processor to debit the Designated Account for chargebacks, recoupments, adjustments, fines, fees and any other penalties or amounts owed under this Agreement, and irrevocably authorizes Bank and Processor to debit the Designated Account for any amount owed to Bank and Processor under this Agreement other than the amount directly attributable to the settlement of transactions. You also authorize Processor and Bank to debit the Merchant Account for any fees due such vendor or agent under this Agreement. This authority will remain in effect for at least 2 years after termination of this Agreement whether or not you have notified Processor and Bank of a change to the Designated Account. Merchant must obtain prior written consent from Bank or Processor to change the Designated Account. If Merchant does not get that consent, Processor or Bank may immediately terminate the Agreement and may take other action necessary, as determined by them within their sole discretion.

B. Deposit. Bank will deposit all Sales Drafts to the Designated Account subject to the other provisions of this Agreement. The funds represented by Sales Drafts will be deposited 3 business days following Processor's receipt of the Sales Draft, except for mail order/telephone order and electronic commerce transactions, which will be deposited 5 business days following receipt of the Sales Draft. "Business Day" means Monday through Friday, excluding holidays observed by the Federal Reserve Bank of New York. Merchant authorizes Bank and Processor to initiate reversal or adjustment entries and initiate or suspend such entries as may be necessary to grant Merchant provisional credit for any entry. You authorize and appoint Bank and Processor to act as your agent to collect Card transaction amounts from the Card issuing bank. As the collecting agent, Bank and Processor in their sole discretion, may grant you provisional credit for transaction amounts in the process of collection, subject to receipt of final payment by Bank and subject to all chargebacks.

C. Assented Errors. You must promptly examine all statements relating to the Designated Account, and immediately notify Processor and Bank in writing of any errors. Your written notice must include: (i) Merchant name and account number; (ii) the dollar amount of the asserted error; (iii) a description of the asserted error; and (iv) an explanation of why you believe an error exists and the cause of it, if known. That written notice must be received by Processor and Bank within 30 calendar days after you received the periodic statement containing the asserted error. Your failure to notify Processor and Bank of any error within 30 days constitutes a waiver of any claim relating to that error. You may not make any claim against Processor or Bank for any loss or expense relating to any asserted error for 60 calendar days immediately following our receipt of your written notice. During that 60 day period, Processor and Bank will be entitled to investigate the asserted error.

D. Indemnity. You will indemnify and hold Processor and Bank harmless for any action they take against the Designated Account, the Reserve Account, or any other account pursuant to this Agreement.

E. ACH Authorization. You authorize Processor and Bank to initiate debit/credit entries to the Designated Account or the Reserve Account, all in accordance with this Agreement and the ACH Authorization on the attached Exhibit B, Merchant Authorizations. The ACH Authorization will remain in effect beyond termination of this Agreement. In the event you change the Designated Account, you will execute a new ACH Authorization.

7. Security Interests, Reserve Account, Recoupment and Set-Off.

A. Security Interests. i. Security Agreement. This Agreement is a security agreement under the Uniform Commercial Code. You grant to Processor and Bank a security interest in and lien upon: (i) all funds at any time in the Designated Account, (ii) all funds at any time in the Reserve Account, (iii) present and future Sales Drafts; and (iv) any and all amounts which may be due to you under this Agreement including, without limitation, all rights to receive any payments or credits under this Agreement (collectively, the "Secured Assets"). You agree to provide other collateral or security to Processor and Bank to secure your obligations under this Agreement upon Processor or Bank's request. These security interests and liens will secure all of your obligations under this Agreement and any other agreements now existing or later entered into between you and Processor or Bank. This security interest may be exercised by Processor or Bank without notice or demand of any kind by making an immediate withdrawal or freezing the secured assets. ii. Perfection. Upon request of Processor or Bank, you will execute one or more financing statements or other documents to evidence this security interest. You represent and warrant that no other person or entity has a security interest in the Secured Assets. Further, with respect to such security interests and liens, Processor and Bank will have all rights afforded under the Uniform Commercial Code, any other applicable law and in equity. You will obtain from Processor and Bank written consent prior to granting a security interest of any kind in the Secured Assets to a third party. You agree that this is a contract of recoupment and Processor and Bank are not required to file a motion for relief from the automatic stay in any bankruptcy proceeding in order for Processor or Bank to realize on any of its collateral (including any Reserve Account). Nevertheless, you agree not to contest or object to any motion for relief from the automatic stay filed by Processor or Bank. You authorize Processor or Bank and appoint Processor or Bank your attorney in fact to sign your name to any financing statement used for the perfection of any security interest or lien granted hereunder.

B. Reserve Account. i. Establishment. A non-interest bearing deposit account ("Reserve Account") has been established and is maintained at Bank or one of its affiliates with sums sufficient to satisfy your current and future merchant obligations as determined by Processor and Bank. You authorize Processor and Bank to debit the Designated Account or any other account you have at Bank or any other financial institution to establish or maintain funds in the Reserve Account. Bank or Processor may deposit into the Reserve Account funds it would otherwise be obligated to pay you, for the purpose of establishing, maintaining or increasing the Reserve Account in accordance with this Section, if it determines such action is reasonably necessary to protect its interests. ii. Authorizations. Processor and Bank may, without notice to you, agree deposits in the Reserve Account against any outstanding amounts you owe under this Agreement or any other agreement between you and Processor or Bank. Also, Processor and Bank may exercise their rights under this Agreement against the Reserve Account to collect any amounts due to Processor or Bank including, without limitation, rights of set-off and recoupment. In the event you submit a merchant application to Processor through the use of Insta-App, and Processor does not receive a completed written merchant application within 2 business days, you authorize Processor or Bank to hold all of your funds in the Reserve

Account until the completed written merchant application and other required documentation is received by Processor. iii. Funds. Funds in the Reserve Account will remain in the Reserve Account for 270 calendar days following the later of termination of this Agreement or the last activity in your account, provided, however, that you will remain liable to Processor and Bank for all liabilities occurring beyond such 270 day period. After the expiration of the 270 day period Processor will provide you with written notification via nationally recognized delivery service advising you that the 270 day period has expired, requesting that you provide Processor with an address where the funds you have remaining in the Reserve Account should be delivered, and stating that in the event you fail to respond to this notification within 30 days; Processor will begin deducting a flat fee of \$95 each month from the funds you have remaining in the Reserve Account. In the event you fail to respond to the notification, the \$95 fee will then be deducted each month from the funds you have remaining in the Reserve Account. This fee will offset the administrative, clerical, legal, and risk management costs incurred by Processor to monitor the funds you have remaining in the Reserve Account beyond the 270 day period, and includes all monthly minimums and any other contractual fees that would ordinarily be assessed against your account pursuant to the terms of this Agreement. You agree that prior to the expiration of the 270 days, you will not use any funds you have in the Reserve Account for any purpose, including but not limited to paying chargebacks, fees, fines, or other amounts you owe to Processor and/or Bank under this Agreement. Processor and Bank (and not Merchant) shall have control of the Reserve Account. iv. Assurance. In the event of a bankruptcy proceeding and the determination by the court that this Agreement is assumable under Bankruptcy Code § 365, as amended from time to time, you must maintain funds in the Reserve Account in an amount satisfactory to Processor and Bank.

C. Recoupment and Set-Off. Processor and Bank have the right of recoupment and set-off. This means that they may offset or recoup any outstanding/uncollected amounts owed by you from: (i) any amounts they would otherwise be obligated to deposit into the Designated Account; (ii) any other amounts Bank or Processor may owe you under this Agreement or any other agreement; and (iii) any funds in the Designated Account or the Reserve Account. You acknowledge that in the event of a bankruptcy proceeding, in order for you to provide adequate protection under Bankruptcy Code § 362 to Processor and Bank, you must create or maintain the Reserve Account as required by Processor and Bank, and Processor and Bank must have the right to offset against the Reserve Account for any and all obligations which you may owe to Processor and Bank, without regard to whether the obligations relate to Sales Drafts initiated or created before or after the filing of the bankruptcy petition.

D. Remedies Cumulative. The rights and remedies conferred upon Processor and Bank in this Agreement, at law or in equity, are not intended to be exclusive of each other. Rather, each and every right of Processor and Bank under this Agreement, at law or in equity, will be cumulative and concurrent and in addition to every other right.

8. Fees and Other Amounts Owed Processor and Bank.

A. Fees and Taxes. You will pay Processor fees for services, forms and equipment in accordance with the rates set forth on the Application including a \$35 NSF/Chargeback fee if applicable. In addition, you will pay Processor a fee for research if performs at your request in an amount equal to \$0 per hour, or \$0 per statement. Such fees will be calculated and debited from the Designated Account once each business day or month for the previous business day's or month's activity or will be netted out from the funds due you attributable to Sales Drafts presented to Processor and Bank. Processor and Bank reserve the right to adjust the fees set forth on the Application and in this Section, in accordance with Section 6.H, below. If you do not have an active account at the time of the request, payment by certified check or money order must be received prior to the release of the requested document copies or research results. You are also obligated to pay all taxes, and other charges imposed by any governmental authority on the services provided under this Agreement. With respect to Visa, MasterCard and Discover products, you may elect to accept credit cards or debit/prepaid cards or both. You shall so elect on the Merchant Application being completed contemporaneously herewith. You agree to pay and your account(s) will be charged pursuant to Section 6.A of this Agreement for any additional fees incurred as a result of your subsequent acceptance of transactions with any Visa, MasterCard or Discover product that you have elected not to accept.

B. Other Amounts Owed Processor and Bank. You will immediately pay Processor and Bank any amount incurred by Processor and Bank attributable to this Agreement including but not limited to chargebacks, retrievals, NSF charges, fines and penalties imposed by Visa, MasterCard or Discover (including but not limited to fines and penalties related to PCI DSS), non-sufficient fund fees, and ACH debits that overdraw the Designated Account or Reserve Account, or are otherwise dishonored. You authorize Processor and Bank to debit via ACH the Designated Account or any other account you have at Bank or at any other financial institution for any amount you owe Processor or Bank under this Agreement or under any other contract, note, guaranty, instrument or dealing of any kind now existing or later entered into between you and Processor or Bank, whether your obligation is direct, indirect, primary, secondary, fixed, contingent, joint or several. In the event Processor or Bank demand sums due or such ACH does not fully reimburse Processor and Bank for the amount owed, you will immediately pay Processor and Bank such amount.

C. Merchant Supply/Replacement Program. Merchant is responsible for purchasing all supplies required to properly process credit card transactions (cash slips, printer rolls, etc.). If Merchant elects to participate in Processor's Supply/Replacement Program, Merchant understands that it is entitled to a maximum of 6 rolls of paper and 2 printer ribbons per month. It is Merchant's responsibility to contact Processor each month to order supplies. Processor will only provide Merchant with supplies for the current month, and Merchant's failure to place an order with Processor will constitute a waiver of its right to receive supplies for that month under the Supply/Replacement Program. Quantity of supplies provided is at the discretion of Processor. Enrollment in Processor's Supply/Replacement Program also entitles Merchant to free refurbished replacement equipment after Processor has collected 3 monthly payments from Merchant (merchant is responsible for all shipping costs). A separate program is required for each terminal Merchant may have. If Merchant's terminal type is unavailable, at Processor's discretion, a substitute may be provided. Processor's Supply/Replacement Program does not include labor, parts, or expenses necessary to replace or repair equipment damaged by fire, flood, accident, improper voltage, misuse of equipment, service performed by persons other than Processor representatives, and/or failure to continually maintain a suitable operating environment for the equipment. Processor may choose to cancel Merchant's Supply/Replacement Program at any time without notice. This program is nontransferable without written consent. Maintenance is not available for any wireless terminals.

9. Application, Indemnification, Limitation of Liability.

A. Application. You represent and warrant to Processor and Bank that all information in the Application is correct and complete. You must notify Processor in writing of any changes to the information in the Application, including but not limited to: any additional location or new business, the identity of principals and/or owners, the form of business organization (e.g., sole proprietorship, partnership, etc.), type of goods and services provided and how sales are completed (i.e., by telephone, mail, or in person at your place of business). The notice must be received by Processor within 10 business days of the change. You will provide updated information to Processor within a reasonable time upon request. You are liable to Processor and Bank (as applicable) for all losses and expenses incurred by Processor and/or Bank arising out of your failure to report changes to it. Bank and Processor may immediately terminate this Agreement upon notification by you of a change to the information in the Application.

B. Indemnification. You will hold harmless and indemnify Processor and Bank, their employees and agents (i) against all claims by third parties arising out of this Agreement, and (ii) for all attorneys' fees and other costs and expenses paid or incurred by Processor or Bank in the enforcement of the Agreement, including but not limited to those resulting from any breach by you of this Agreement and those related to any bankruptcy proceeding.

C. Limitation of Liability. Any liability of Processor or Bank under this Agreement, whether to you or any other party, whatever the basis of the liability, shall not exceed in the aggregate the difference between (i) the amount of fees paid by you to Processor and Bank during the month in which the transaction out of which the liability arose occurred, and (ii) assessments, chargebacks, and offsets against such fees which arose during such month. In the event more than one month is involved, the aggregate amount of Processor and Bank's liability

shall not exceed the lowest amount determined in accord with the foregoing calculation for anyone month involved. Neither Processor, Bank nor their agents, officers, directors, or employees shall be jointly liable to you under this Agreement or liable for indirect, special, or consequential damages. Neither Processor nor Bank will be responsible or liable for any damages you incur that arise from a terminal that has been downloaded by a third party.

D. Performance. Processor and Bank will perform all services in accordance with this Agreement. Processor and Bank make no warranty, express or implied, regarding the services, and nothing contained in the Agreement will constitute such a warranty. Processor and Bank disclaim all implied warranties, including those of merchantability and fitness for a particular purpose. No party will be liable to the others for any failure or delay in its performance of this Agreement if such failure or delay arises out of causes beyond the control and without the fault or negligence of such party. Neither Processor nor Bank shall be liable for the acts or omissions of any third party.

E. Representations by Salespersons. All salespersons are independent contractors, and are not agents, employees, joint venturers, or partners of Processor or Bank. Any and all representations and/or statements made by a salesperson are made by them in their capacity as an independent contractor, and cannot be imputed to Processor or Bank. Processor and Bank have absolutely no liability or responsibility for any representations and/or statements made to you by any sales representative.

10. Representations and Warranties. You represent and warrant to Processor and Bank at the time of execution and during the term of this Agreement the following:

A. Information. You are a Government Entity validly existing and organized in the United States. All information contained on the Application or any other document submitted to Processor or Bank is true and complete and properly reflects the business, financial condition, and principal partners, owners, or officers of Merchant. You are not engaged or affiliated with any businesses, products or methods of selling other than those set forth on the Application, unless you obtain the prior written consent of Processor and Bank.

B. Entry Power. Merchant and the person signing this Agreement have the power to execute and perform this Agreement. This Agreement and your performance hereunder will not violate any law, or conflict with any other agreement to which you are subject.

C. No Litigation or Termination. There is no action, suit or proceeding pending or to your knowledge threatened which if decided adversely would impair your ability to carry on your business substantially as now conducted or which would adversely affect your financial condition or operations. You have never entered into an agreement with a third party to perform credit or debit card processing which has been terminated by that third party.

D. Transactions. All transactions are bona fide. No transaction involves the use of a Card for any purpose other than the purchase of goods or services from you nor does it involve a CashOrder obtaining cash from you unless allowed by the Rules and agreed in writing with Processor and Bank. Processor may choose to cancel Merchant's Supply/Replacement Program at any time without notice. This program is non-transferable without written consent. Maintenance is not available for any wireless terminals.

E. Rule Compliance. You will comply with the Laws and Rules. Without limiting the generality of the foregoing, each sales transaction submitted hereunder and the handling, retention, and storage of information related thereto, will comply with the rules and regulations of Visa, MasterCard, Discover, and any other card association or network organization related to cardholder and transaction information security, including, without limitation Payment Card Industry Data Security Standards (PCI DSS), Visa's Cardholder Information Security Program (CISP) and MasterCard's Site Data Protection Program (SDP), and Payment Application Best Practices.

11. Audit and financial information.

A. Audit. You authorize Processor or Bank to audit your records to confirm compliance with this Agreement, as amended from time to time. You will obtain, and will submit a copy of, an audit of your business when requested by Processor or Bank.

B. Financial Information. i. Authorizations. You authorize Processor or Bank to make any business or personal credit inquiries they consider necessary to review the acceptance and continuation of this Agreement. You also authorize any person or credit reporting agency to compile information to answer, those credit inquiries and to furnish that information to Processor and Bank. ii. Documents. You will provide Processor or Bank personal and business financial statements and other financial information as requested from time to time. If requested, you will furnish within 120 calendar days after the end of each fiscal year to Processor and Bank a financial statement of profit and loss for the fiscal year and a balance sheet as of the end of the fiscal year.

12. Third Parties.

A. Services. You may be using special services or software provided by a third party to assist you in processing transactions, including authorizations and settlements, or accounting functions. You are responsible for ensuring compliance with the requirements of any third party in using their products. This includes making sure you have and comply with any software updates. Processor and Bank have no responsibility for any transaction until that point in time Processor or Bank receive data about the transaction.

B. Use of Terminals Provided by Others. You will notify Processor and Bank immediately if you decide to use electronic authorization or data capture terminals or software provided by any entity other than Processor and Bank or its authorized designee ("Third Party Terminals") to process transactions. If you elect to use Third Party Terminals or payment software provided by others you agree (i) the third party providing the terminals will be your agent in the delivery of Card transactions to Processor and Bank; and (ii) to assume full responsibility and liability for any failure of that third party to comply with the Rules and this Agreement. Neither Processor nor Bank will be responsible for any losses or additional fees incurred by you as result of any error by a third party agent, or a malfunction of your credit card terminal, including but not limited to Third Party Terminals.

13. Term and Termination.

A. Term. This Agreement shall become effective ("Effective Date") only upon acceptance by Processor and Bank, or upon the submission of a transaction by you to Processor, whichever event shall occur first. The Agreement will remain in effect for a period of 3 years ("Initial Term") and will renew for successive 1 year terms ("Renewal Term") unless terminated as set forth below.

B. Termination. The Agreement may be terminated by Merchant at the end of the Initial Term or any Renewal Term by giving written notice of an intention not to renew at least 90 calendar days before the end of the Initial Term or any Renewal Term. Further, this Agreement may be terminated by Processor or Bank at any time with or without notice and with or without cause.

C. Action upon Termination. i. Terminated Merchant File. You acknowledge that Bank is required to report your business name and the name of Merchant's principals to Visa, MasterCard and Discover when Merchant is terminated due to the reasons reasons listed in the Rules. ii. Designated Account. All your obligations regarding accepted Sales Drafts will survive termination. You must maintain in the Designated Account and the Reserve Account enough funds to cover all chargebacks, deposit charges, refunds and fees incurred by you for a reasonable time, but in any event not less than the time specified in this agreement. You authorize Processor and Bank to charge those accounts, or any other account maintained under this Agreement, for all such amounts. If the amount in the Designated Account or Reserve Account is not adequate, you will pay Processor and Bank the amount you owe it upon demand, together with all costs and expenses incurred to collect that amount, including reasonable attorneys' fees. iii. Equipment. Within 14 business days of the date of termination, you must return all equipment owned by Processor and immediately pay Processor, any amounts you owe them for equipment costs. iv. Early Termination. If you terminate this agreement you agree to give Processor a written notice of cancellation 60 days prior to: no longer processing transactions with Processor, switching to a competing service provider, or no longer using Processor's processing services. Failure to provide such notice will result in an Early Closure fee equal to: \$0 if cancelled within the first 12 months of your first

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batch date, or \$0 if cancelled anytime thereafter. You agree this fee is not a penalty but rather is reasonable in the light of the financial harm caused by the early or improper termination of this Agreement. Such Early Closure Fee shall be waived if proper 60 day notice is given as indicated above.

14. Compliance With Laws And Rules.

You agree to comply with all rules and operating regulations issued from time to time by MasterCard, Visa and Discover ("Rules"), and any policies and procedures provided by Processor or Bank. You further agree to comply with all applicable state, federal and local laws, rules and regulations ("Laws"), as amended from time to time. You will assist Processor and Bank in complying with all Laws and Rules now or hereafter applicable to any Card Transaction or this Agreement. You will execute and deliver to Processor and Bank all instruments it may from time to time reasonably deem necessary. Without limiting the generality of the foregoing, you agree to comply with and be bound by the rules and regulations of Visa, MasterCard, Discover, and any other card association or network organization related to cardholder and transaction information security, including without limitation, Payment Card Industry Data Security Standards (PCI DSS), Visa's Cardholder Information Security Program and MasterCard's Site Data Protection Program. You agree to cooperate at your sole expense with any request for an audit or investigation by Processor, Bank, a card association or network organization in connection with cardholder and transaction information security. You may also be assessed a monthly or annual PCI fee, which will appear as a separate item on your monthly statement. This fee is assessed by Processor in connection with Processor's efforts to comply with the PCI DSS and does not ensure your compliance with the PCI DSS or any law, rule or regulation related to cardholder data security. The payment of such fee shall not relieve you of your responsibility to comply with all rules and regulations related to cardholder data security, including without limitation the PCI DSS. Without limiting the generality of the foregoing, you agree to use information obtained from a cardholder in connection with a card transaction solely for the purpose of processing a transaction with that cardholder or attempting to re-present a chargeback with respect to such transaction. You will indemnify and hold Processor and Bank harmless from any fines and penalties issued by Visa, MasterCard, Discover or any card association or network organization and any other fees and costs arising out of or relating to the processing of transactions by Processor and Bank at your location(s) and will reimburse Processor and Bank for any losses incurred by Processor with respect to any such fines, penalties, fees and costs. You also agree that you will comply with all applicable laws, rules and regulations related to the truncation or masking of cardholder numbers and expiration dates on transaction receipts from transactions processed at your location(s), including without limitation the Fair and Accurate Credit Transactions Act and applicable state laws ("Truncation Laws"). As between you, on the one hand, and Processor and Bank, on the other hand, you shall be solely responsible for complying with all Truncation Laws and will indemnify and hold Processor and Bank harmless from any claim, loss or damage resulting from a violation of Truncation Laws as a result of transactions processed at your location(s).

15. Use of Trademarks and Confidentiality.

A. Use of Trademarks. Your use of Visa, MasterCard and Discover trademarks must fully comply with the Rules. Your use of Visa, MasterCard, Discover, or other cards' promotional materials will not indicate directly or indirectly that Visa, MasterCard, Discover, or others endorse any goods or services other than their own and you may not refer to Visa, MasterCard, Discover or others in stating eligibility for your products or services.

B. Merchant is hereby granted a limited non-exclusive, non-transferable license to use Discover brands, emblems, trademarks, and/or logos that identify Discover cards ("Discover Program Marks"). You are prohibited from using the Discover Program Marks other than as expressly authorized in writing. You shall not use the Discover Program Marks other than to display decals, signage, advertising and other items depicting the Discover Program Marks that are provided to you pursuant to this Agreement or otherwise approved in advance in writing. You may use the Discover Program marks only to promote the services covered by the Discover Program Marks by using them on decals, indoor and outdoor signs, advertising materials and marketing materials; provided that all such uses by you must be approved in advance in writing. You shall not use the Discover Program Marks in such a way that customers could believe that the products or services offered by you are sponsored or guaranteed by the owners of the Discover Program Marks. You recognize that you have no ownership rights in the Discover Program Marks and shall not assign to any third party any of the rights to use the Discover

Program Marks.

C. Confidentiality. i. Cardholder Information. You will not disclose to any third party Cardholders' account information or other personal information except to an agent of yours assisting in completing a Card transaction, or as required by law. You must destroy all material containing Cardholders' account numbers, Card imprints, Sales Drafts, credit vouchers and (except for Sales Drafts maintained in accordance with this Agreement, Laws, and the Rules). Further, you must take all steps reasonably necessary to ensure Cardholder information is not disclosed or otherwise misused. ii. Prohibitions. You will not use for your own purposes, will not disclose to any third party, and will retain in strictest confidence all information and data belonging to or relating to the business of Processor and Bank (including without limitation the terms of this Agreement), and will safeguard such information and data by using the same degree of care that you use to protect your own confidential information. iii. Disclosure. You authorize Processor and Bank to disclose your name and address to any third party who requests such information or otherwise has a reason to know such information.

D. Return to Processor. All promotional materials, advertising displays, emblems, Sales Drafts, credit memoranda and other forms supplied to you and not purchased by you or consumed in use will remain the property of Processor and Bank and will be immediately returned to Processor upon termination of this Agreement. You will be fully liable for all loss, cost, and expense suffered or incurred by Processor and Bank arising out of the failure to return or destroy such materials following termination.

16. General Provisions.

A. Entire Agreement. This Agreement, as amended from time to time, including the Rules and the completed Merchant Application, all of which are incorporated into this Agreement, constitute the entire agreement among the four parties hereto (other than any prior agreements to which Merchant is not a party), and all prior or other agreements to which Merchant is a party or representations, written or oral, made to Merchant are superseded. This Agreement may be signed in one or more counterparts, all of which, taken together, will constitute one agreement.

B. Exclusivity. During the initial and any renewal term of this Agreement, you will not enter into an agreement with any other entity that provides credit card or debit card processing services similar to those provided by Processor and Bank as contemplated by this Agreement without Processor and Bank's written consent.

C. Construction. The headings used in this Agreement are inserted for convenience only and will not affect the interpretation of any provision. The language used will be deemed to be the language chosen by the parties to express their mutual intent, and no rule of strict construction will be applied against any party. Any alteration or strikeover in the text of this pre-printed Agreement will have no binding effect, and will not be deemed to amend this Agreement. This Agreement may be executed by facsimile, and facsimile copies of signatures to this Agreement shall be deemed to be originals and may be relied on to the same extent as the originals.

D. Assignability. This Agreement may be assigned by Processor or Bank but may not be assigned by Merchant directly or by operation of law, without the prior written consent of Processor and Bank. Any such assignment in breach of this provision shall be null and void, ab initio. If Merchant nevertheless assigns this Agreement without the consent of Processor and Bank, the Agreement shall be binding upon the assignee. Bank will be immediately informed in writing of any such assignment.

E. Notices. Any written notice under this Agreement will be deemed received upon the earlier of: (i) actual receipt or (ii) five calendar days after being deposited in the United States mail, and addressed to the last address shown on the records of the sender.

MEMBER BANK INFORMATION

Deutsche Bank AG, NY Branch
80 Wall Street, 36th floor
New York, New York 10005
+49 221 98577 777 Support.deus@db.com
Debit sponsorship provided by either Wells Fargo Bank N.A. or JP Morgan Chase N.A., as applicable.

F. Bankruptcy. You will immediately notify Processor and Bank (i) of any bankruptcy, receivership, insolvency or similar action or proceeding initiated by or against Merchant or any of its principals and (ii) if it could reasonably be expected that any such action or proceeding will be initiated by or against Merchant or any of its principals. You will include Processor and Bank on the list and matrix of creditors as filed with the Bankruptcy Court whether or not a claim may exist at the time of filing. Failure to comply with either of these requirements will be cause for immediate termination or any other action available to Processor and Bank under applicable Rules or Law.

G. Choice of Law/Attorney's Fees/Venue/Jury Trial Waiver. Should it be necessary for either party to defend or enforce any of its rights under this Agreement in any collection or legal action, each party agrees that the prevailing party, as permitted by State Law, shall be entitled to recover, as applicable, reasonable costs and expenses including reasonable attorney's fees, as a result of such collection or legal action. Each party agrees to waive trial by jury with respect to any litigation arising out of, relating to, or in connection with this Agreement. Each Party agrees that any and all disputes or controversies of any nature whatsoever (whether in contract, tort or otherwise) arising out of, relating to, or in connection with (i) this Agreement; (ii) the relationships which result from this Agreement, or (iii) the validity, scope, interpretation or enforceability of the choice of law and venue provisions of this Agreement, shall be governed by the laws of the State of New York, notwithstanding any conflicts of laws rules (other than NY General Obligations Law Section 5-1401), and shall be resolved, on an individual basis without resort to any form of class action and not consolidated with the claims of any other parties. Processor, Bank, you, and Guarantor agree that all actions arising out of, relating to, or in connection with (a) this Agreement, (b) the relationships which result from this Agreement, or (c) the validity, scope, interpretation or enforceability of the choice of law and venue provisions of this Agreement shall only be brought in either the courts of the State of New York sitting in Suffolk County or in the United States District Court for the Eastern District of New York, and hereby irrevocably and unconditionally submit to the personal jurisdiction of those courts in any such action.

H. Amendments. Processor will notify you on your monthly statement of any new or increased fees. Except for any fee increases imposed by Visa, MasterCard, Discover, or the debit network, you may cancel the Agreement without charge if you object to the fee changes in writing within 30 days. If you do not object, and continue to process for 30 days after receiving notice of the fee change, you will be deemed to assent to the new fees.

I. Severability and Waiver. If any provision of this Agreement is illegal, the invalidity of that provision will not affect any of the remaining provisions and this Agreement will be construed as if the illegal provision is not contained in the Agreement. Neither the failure nor delay by Processor or Bank to exercise, or partial exercise of, any right under this Agreement will operate as a waiver or estoppel of such right, nor shall it amend this Agreement. All waivers must be signed by the waiving party.

J. Independent Contractors. Processor, Bank and Merchant will be deemed independent contractors and will not be considered agent, joint venture or partner of the other, except as provided in 6.C and 7.A(ii).

K. Employee Actions. You are responsible for your employees' actions while in your employment.

L. Survival. Sections 4.A, 4.B, 6, 7, 8, 9, 13.C, 15, and 16.G will survive termination of this Agreement.

17. Electronic Signatures.

Under the Electronic Signatures in Global and National Commerce Act ("E-Sign"), this Agreement and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature when: (a) your electronic signature is associated with the Agreement and related documents, (b) you consent and intend to be bound by the Agreement and related documents, and (c) the Agreement is delivered in an electronic record capable of retention by the recipient at the time of receipt (i.e., print or otherwise store the electronic record). This Agreement and all related electronic documents shall be governed by the provisions of E-Sign. By pressing Submit, you agree: (i) that the Agreement and related documents shall be effective by electronic means, (ii) to be bound by the terms and conditions of this Agreement and related documents, (iii) that you have the ability to print or otherwise store the Agreement and related documents, and (iv) to authorize Processor or Bank to conduct an investigation of your credit history with various credit reporting and credit bureau agencies for the sole purpose of determining the approval of the applicant for merchant status or equipment leasing. This information is kept strictly confidential and will not be released to you.

X

(accepted by Processor)

X

(accepted by Deutsche Bank AG, New York)

CITY OF PARKVILLE Policy Report

Date: Tuesday, August 23, 2016

Prepared By:

Matthew Chapman
Finance/Human Resources Director

Reviewed By:

Lauren Palmer
City Administrator

ISSUE:

Approve a professional services agreement with TekCollect for a pilot project to collect delinquent account balances owed by sewer customers.

BACKGROUND:

In November 2012 the City of Parkville assumed responsibility for the billing and collection of sewer services. Sewer billing had previously been contracted with Missouri American Water. The billing clerk is responsible for all of the City's accounts payable processing as well as all sewer billing and collections. A significant portion of her time is being dedicated to attempting to collect from customers whose sewer accounts are delinquent. Staff has determined that a portion of these accounts are still considered collectible, but staff has exhausted all reasonable resources attempting to collect these past due amounts. In some cases, the delinquencies are many months old or attributable to past customers who no longer live in Parkville.

Staff would like to assign a portion of delinquent accounts to a professional collection agency with experience in these types of utility collections. TekCollect currently provides collection services to Co-Mo Electric Cooperative in Tipton, Missouri as well as Kansas City Water Services. Staff has identified 38 accounts totaling \$17,223.23 deemed ready to submit to collections. TekCollect has historically collected between 64 and 68% of accounts turned over to them. Once a trial period of six months has been completed, staff will evaluate and determine if the collection agency is providing value to the city and collecting funds that would otherwise be written off. At that time if there is consensus to continue the service, staff will recommend commencing a formal request for proposals process to competitively select a professional collection agency to engage in a long-term capacity.

BUDGET IMPACT:

TekCollect will charge the city \$18 per account submitted for collections. Based on the initial submittal of accounts and anticipated additional accounts submitted during the trial period, budget impact is expected to be approximately \$1,100. A conservative estimate of delinquent sewer collections as a result of this agreement would be \$8,000.

ALTERNATIVES:

1. Approve a professional services agreement with TekCollect for a pilot program to collect delinquent account balances owed by sewer customers.
2. Do not approve the recommendation and provide further direction.
3. Postpone the item.

STAFF RECOMMENDATION:

Staff recommends that the Finance Committee approve a professional services agreement with TekCollect to attempt to collect past due sewer accounts.

ITEM 4C

For 08-29-16

Board of Aldermen – Finance Committee Meeting

POLICY:

Per the Purchasing Policy, Resolution No. 10-02-14, the Finance Committee may authorize purchases up to \$10,000. Although the estimated purchase amount of this pilot program is within staff authority, action is requested by the Finance Committee and the Board of Aldermen since this represents a change in policy for sewer billing.

SUGGESTED MOTION:

I move to recommend that the Board of Aldermen approve a professional services agreement with TekCollect for the collection of delinquent sewer account funds due.

ATTACHMENT:

1. Collection Agency Professional Services Agreement
-

COLLECTION AGENCY PROFESSIONAL SERVICES AGREEMENT

THIS SERVICE AGREEMENT, entered into on this 6th day of September 2016, by and between the CITY OF PARKVILLE, MISSOURI (“City”) and TEKCOLLECT (“Service Provider”).

WHEREAS, the City requires a collection agency to collect monies owed on delinquent sewer accounts (“Project”); and

WHEREAS, Service Provider has demonstrated the necessary expertise, experience, and personnel to complete the Project.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term “Services” when used in this Agreement shall mean any and all delinquent sewer account collection services provided by the Service Provider in accordance with this Agreement.
- B. The City agrees to retain Service Provider and Service Provider agrees to perform and complete the Services described in the Exhibit A – Scope of Services and Fees, attached hereto and incorporated by reference.
- C. The City reserves the right to direct revision of the Services at the City’s discretion. Service Provider shall advise the City of additional costs and time delays, if any, in performing the revision, before Service Provider performs the revised services.
- D. Service Provider shall provide Additional Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Service Provider without the City’s prior written consent shall be at the Service Provider’s own risk, cost, and expense, and Service Provider shall not make a claim for compensation from the City for such work.

II. STANDARD OF CARE

- A. Service Provider shall exercise the same degree of care, skill, and diligence in the performance of all Services to the City that is ordinarily possessed and exercised by reasonable, prudent, and experienced professionals under similar circumstances.
- B. Service Provider represents it has all necessary licenses, permits, knowledge, and certifications required to perform the Services described herein.

III. COMPENSATION

- A. As consideration for providing the Services, the City shall pay Service Provider as follows:
 - a. Services will be billed at a rate of \$18 per customer account turned over from the City of Parkville to TekCollect.
 - b. Service Provider is not eligible for reimbursement for miscellaneous expenses including travel, transportation, postage, etc. except as provided in Exhibit A.
 - c. In no case would the costs incurred in submitting accounts exceed the revenues earned through the collection process.
- B. Service Provider shall submit an itemized invoice to the City on the first day of each month that details the Services that were provided in the month immediately prior, as well as any other charges or reimbursements to which the Service Provider is entitled by this Agreement. The City agrees to pay the balance of an approved invoice, or undisputed

portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Service Provider of the nature of the dispute regarding the balance.

- C. Service Provider shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

IV. SCHEDULE

- A. Unless otherwise directed by the City, Service Provider shall commence performance of the Services upon execution of this Agreement.
- B. Services shall be completed within the timeframe(s) outlined in Exhibit A – Scope of Services and Fees.
- C. Neither the City nor the Service Provider shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- D. If Service Provider's performance is delayed due to delays caused by the City, Service Provider shall have no claim against the City for damages or payment adjustment other than an extension of time to perform the Services.

V. LIABILITY AND INDEMNIFICATION

- A. Service Provider shall indemnify, defend and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Service Providers' negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Services, including performance by Service Provider's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials Service Provider creates or supplies to the City, except to the extent that such claims arise from materials created or supplied by the City.
- B. Service Provider's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Service Provider whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

The Service Provider shall secure and maintain, at its expense, through the duration of this Agreement the insurance described on Exhibit B.

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Service Provider's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Service Provider.

- B. While upon City premises, the Service Provider's employees and agents shall be subject to the City's rules and regulations respecting its property and the conduct of employees thereon.

VIII. OWNERSHIP OF WORK PRODUCT

Service Provider agrees that any documents, materials and work products produced in whole or in part through it under this Agreement, any intellectual property rights of Service Provider therein (collectively the "Works") are intended to be owned by the City. Accordingly, Service Provider hereby assigns to the City all of its right title and interest in and to such Works.

IX. RELATIONSHIP OF THE PARTIES

- A. Service Provider represents that it has, or will secure at Service Provider's own expense, all personnel required in performing the Services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with the City.
- B. All of the Services required hereunder will be performed by the Service Provider or under Service Provider's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- C. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement.

X. NOTICES

- A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:

- B. Notices sent by Service Provider shall be sent to:
 - City of Parkville
 - Attn: Finance/Human Resources Director
 - 8880 Clark Ave.
 - Parkville, MO 64152
 - mchapman@parkvillemo.gov

- A. Notices sent by the City shall be sent to:
 - TekCollect
 - Attn: Ken Wilson
 - 871 Park Street
 - Columbus, OH 43215
 - kwilson@tekcollect.com

XI. TERM AND TERMINATION

- A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.
- B. The term of this Agreement shall be until all Services are satisfactorily completed and accepted by the City.
- C. Notwithstanding Article XI, Paragraph B, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days written notice to the Service Provider. The City shall compensate Service Provider for the Services that have been completed to the City's satisfaction as of the date of

termination at the rates set forth on Exhibit A, or if the appropriate compensation of services performed through the date of termination is not set forth on Exhibit A, on a pro-rata basis determined by the percentage of completion of services as described on Exhibit A. Service Provider shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.

XII. RESOLUTION OF DISPUTES

- A. City and Service Provider agree that disputes relative to the services and the Project shall first be addressed by negotiations between the parties. Such negotiations shall take place within thirty (30) days of demand by the party seeking resolution of the dispute. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Service Provider shall proceed with the services as per this Agreement as if no dispute existed.
- B. In order to preserve its rights to dispute a matter hereunder, the complaining party must submit a written notice to the other party setting forth the basis for its complaint within twenty (20) calendar days following receipt of the decision of the City Administrator as to such matter or other action on which the dispute is based.
- C. Arbitration of disputes.
 - i. Claims, except those waived as provided for elsewhere in this Agreement, which have not been resolved by the procedures described above, shall be decided by arbitration which, unless the parties mutually agree otherwise, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to the Agreement and with the American Arbitration Association.
 - ii. A demand for arbitration may be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.
 - iii. An arbitration pursuant to this Section may be joined with an arbitration involving common issues of law or fact between the City or Service Provider and any person or entity with whom the City or Service Provider has a contractual obligation to arbitrate disputes which does not prohibit consolidation or joinder. No other arbitration arising out of or relating to the Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to the Agreement or not a party to an agreement with the City, except by written consent containing a specific reference to the Agreement signed by the City and Service Provider and any other person or entities sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to the Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

- iv. Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.
- v. Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

XIII. MISCELLANEOUS PROVISIONS

- A. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. Assignability. Service Provider shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Service Provider from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.
- C. Media Announcements. Service Provider shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City
- D. Compliance with Local Laws. Service provider shall comply with all applicable laws, ordinances, and codes of the State and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. Equal Employment Opportunity. During the performance of this Agreement, Service Provider agrees as follows:
 - i. Service Provider will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, 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.
 - ii. Service Provider will, in all solicitation or advertisements for employees placed by or on behalf of Service Provider, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - iii. Service Provider will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. Authorized Employees. Service Provider acknowledges that Section 285.530, RSMo, prohibits any business entity or employer from knowingly employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State of Missouri. Service Provider therefore covenants that it will not knowingly be in

violation of subsection 1 of Section 285.530, RSMo, and that it will not knowingly employ, hire for employment, or continue to employ any unauthorized aliens to perform Services related to this Agreement, and that its employees can lawfully to work in the United States.

- G. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and Service Provider shall take appropriate steps to assure compliance.
- H. Interest of Service Provider and Employees. Service Provider covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the scope of work associated with this Agreement or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Service Provider further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- I. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Service Provider, and attached hereto.
- J. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or enforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- K. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.
- L. Third Parties. The Services to be performed by the Service Provider are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston, Mayor

ATTEST:

Melissa McChesney, City Clerk

TEKCOLLECT

By: _____
Ken Wilson, Division Vice President

EXHIBIT A

TekCollect

871 Park Street
Columbus, Ohio 43215
www.tekcollect.com

Third Party | Binary Collection Program Basic System

TekCollect's Binary Basic System is a two-phased comprehensive approach to facilitating responsible party communication and payment by leveraging third party authority. It ensures the highest possible recovery rates for past due accounts receivables.

Primary Phase Protocol

- **Audit telephone campaign** is executed, consisting of 12 attempts over 7 days. Calls take place during the morning; evening, and weekend hours to maximize responsible party contact. When possible, voicemail messages will be left, and returned calls will be answered as TekCollect to leverage third party authority.
- **Five written contacts** will be made, beginning with a non-alienating Balance Verification Audit Notice to inform the responsible party of their obligation. The final written contact is an Attorney Demand.
- **Collection telephone campaigns** will be executed, each consisting of three attempts. Calls will take place during morning; evening and weekend hours to maximize responsible party contact. When possible, voicemail messages will be left, and returned calls will be answered as TekCollect to leverage third party authority.
- TekCollect will conduct extensive **electronic database skip tracing** to ensure valid contact information for the successful delivery of verbal and written communications.
- **Monitoring and Tracking** – TekCollect monitors and tracks all work performed by their agents. We are fully compliant with the GLBA, FDCPA, HIPAA, FCRA, FACTA, Red Flag Rules and all legislation related to the Accounts Receivable Management Industry. For the purposes of compliance and effective management, TekCollect records all of its calls, both inbound and outbound.
- TekCollect will accept and process payments on behalf of the Client. We employ maximum safeguards per government standards for secure data transmission.
- Any account remaining uncollected after the Primary Phase can be transferred to TekCollect Secondary Contingent Recovery Division (SCRD).

Page 1

Providing your business with the most advanced accounts receivable management, collections and customer retention solutions.

Secondary Phase Protocol

- The Assignment Transfer Notice will be sent to you approximately two weeks after the Attorney Demand is served, completing the Binary Program's Primary Phase.
- At your discretion, any account uncollected during the Primary Phase can be automatically transferred to TekCollect Secondary Contingent Recovery Division (SCRD).
- SCRD maintains one of the industry's foremost litigation service departments and is specially structured to pursue and salvage second placements.
- SCRD employs comprehensive secondary protocol including intensive skip tracing and asset searches by a specialized staff.
- Accounts that transfer to the Second Phase of Collection will be reported to all major national Credit Bureaus, at no cost, to affect the responsible party's credit.

System Details:

Binary Collection Program: For Balances Less Than \$400

Balance Verification Audit Notice	Day 0
Audit Call Campaign	Day 14-20
Pre-Litigation Letter	Day 30
Telephone Campaign	Day 35-42
Mailgram Letter	Day 45
Telephone Campaign	Day 50-57
Telephone Campaign	Day 70-77
Final Demand Letter	Day 75
Telephone Campaign	Day 84-90
Attorney Demand Letter	Day 90
Assignment Transfer Notice	Day 90
Transferred to SCRD	Day 120
Report to Credit Bureaus	Day 120

EXHIBIT B

INSURANCE REQUIREMENTS

1. The Service Provider shall secure and maintain, at its expense, through the duration of this Agreement Commercial General Liability Insurance on an occurrence basis with minimum limits of \$1,000,000 per occurrence and \$1,000,000 aggregate coverage. Service Provider shall also secure and maintain, through the duration of this Agreement and for at least two years after final payment by the City, Professional Liability – Errors and Omissions Insurance on an occurrence basis with minimum limits of \$1,000,000 per occurrence and \$1,000,000 aggregate coverage. Service Provider shall also secure and maintain Worker’s Compensation and Employer’s Liability Insurance, when applicable, at the limits required by state and/or federal law. The City will only accept coverage from an insurance carrier that offers proof that it:
 - a. Is licensed to do business in the State of Missouri;
 - b. Carries a Best’s policy holder rating of A or better; and
 - c. Carries at least a Class X financial rating.
2. Service Provider shall furnish the City with a Certificate of Insurance on a standard ACORD form, indicating types of insurance, policy numbers, dates of commencement and expiration of policies and carriers. Service Provider shall cause the City to be included as an Additional Insured, and shall require its insurer to provide the City with at least 30 days advance notice of cancellation. Service Provider shall deliver to the City a copy of an Additional Insured Endorsement, using ISO Additional Insured Endorsement (CG 20 10), edition date 11/85, or an equivalent (e.g., CG 20 10, edition date 10/93, plus CG 20 37, edition date 04/13 or other carrier form) and a Notice of Cancellation Endorsement, using CNA form G-140327-B (Ed. 07/11), Travelers Form IL T4 00 (12/09) or other equivalent carrier forms. A copy of the Notice of Cancellation Endorsement and Additional Insured Endorsement must be furnished to the City prior to commencement of any services on City property.

CITY OF PARKVILLE Policy Report

Date: Tuesday, August 23, 2016

Prepared By:
Tim Blakeslee
Assistant to the City Administrator

Reviewed By:
Lauren Palmer
City Administrator

ISSUE:

Request to approve Work Authorization No. 1 with Arbor Masters for tree trimming in the Parkville Nature Sanctuary and Sullivan Nature Sanctuary.

BACKGROUND:

On July 11, 2016, the Board of Aldermen approved a contract with Arbor Masters for on-call tree trimming services. The purpose of the on-call relationship is to have a service provider who can assist the city with routine and emergency services. As needs arise, the city will execute individual work authorizations with Arbor Masters.

The Nature Sanctuary Director has identified several trees in the Parkville Nature Sanctuary and Sullivan Nature Sanctuary that are hazardous (Attachment 1). Many of these trees are dead or have limbs that are dead and need to be removed. Based on the unit costs outlined in the on-call contract, Arbor Masters prepared a cost estimate to perform the work.

City staff prioritized the list of hazardous trees. The list has been divided into priority 1 trees (more important to remove, current safety hazard) and priority 2 trees (less important to remove, future safety hazard). The cost to remove the priority 1 trees is \$2,640. The cost to remove the priority 2 trees is \$1,120.

According to Nature Sanctuary Director Joe Ryan, priority 1 trees represent a current safety hazard and need to be removed. The Parkville Nature Sanctuary division currently has \$2,526 remaining in the trail maintenance budget line item for tree trimming work. This is not quite adequate capacity to cover the priority 1 trees. However, staff anticipates sufficient savings through the end of the year in the vehicle repair and maintenance line item which will help to cover the slight overage in the trail maintenance line item.

Priority 2 trees represent a future safety hazard. Director Joe Ryan estimates that these trees will need to be removed within 6 months to 1 year from now. The trail maintenance budget line item does not have capacity to also complete the priority 2 work. However, if directed by the Finance Committee, staff does anticipate sufficient savings in the salary line item through the end of the year which could help cover the priority 2 work within the Nature Sanctuary's overall 2016 budget. If not approved this year, staff will plan to budget for the priority 2 items next year.

BUDGET IMPACT:

The Parkville Nature Sanctuary division currently has \$2,526 remaining in the trail maintenance budget line item for tree trimming work. The cost to remove the priority 1 trees is \$2,640. The cost to remove the priority 2 trees is \$1,120. Staff anticipates being under budget by \$1,000 in the vehicle repair and maintenance line and by at least \$2,500 in the salaries line. There is also sufficient capacity in the Nature Sanctuary Donation Fund to cover the line item overages.

ITEM 4D

For 8-29-16

Board of Aldermen – Finance Committee Meeting

ALTERNATIVES:

1. Approve the work authorization with Arbor Masters for priority 1 trees in the amount of \$2,640.
2. Approve the work authorization with Arbor Masters for priority 1 and 2 trees in the amount of \$3,760
3. Do not approve the work authorization.
4. Postpone the item.

STAFF RECOMMENDATION:

Staff recommends the approval of the work authorization with Arbor Masters for the tree trimming in the Parkville Nature Sanctuary and Sullivan Nature Sanctuary for priority 1 trees in the amount of \$2,640.

POLICY:

Per the Purchasing Policy, Resolution No. 10-02-14, the Finance Committee may authorize purchases up to \$10,000.

SUGGESTED MOTION:

I move to approve Work Authorization No. 1 with Arbor Masters for tree trimming in the Parkville Nature Sanctuary and Sullivan Nature Sanctuary for priority 1 trees in the amount of \$2,640.

ATTACHMENTS:

1. Tree List
2. Work Authorization

2016 Tree Trimming/Removal Plan

SULLIVAN NATURE SANCTUARY

Priority 1:

- Remove dead Maple spanning across creek: \$1840.00
- Remove dead and leaning Silver Maple over trail: \$320.00

Priority 2:

- Remove dead/split Mulberry : \$480.00

In House:

- Remove lightning struck Mulberry
- Remove dead Maple near creek bank and north trail

PARKVILLE NATURE SANCTUARY

Priority 1:

- Prune deadwood in Picnic area: \$480.00

Priority 2:

- Top dead Box Elder by maintenance buildings: \$640.00

Remaining Budget: \$



March 10, 2014

Do you have homes or businesses in your community that look like this?



Send Them Our Way!

The cities of Riverside and Parkville have joined together to host the 3rd annual **Northland Recycling Extravaganza**. This is a free event and is open to everyone – not just residents of our communities. The goal of the Northland Recycling Extravaganza is to help people get rid of those items that are traditionally hard to recycle or dispose of by providing a one-stop drop off location. There is free collection for all items except for console-style TVs (\$15 for glass-front/tube-style and \$25 for wooden console/DLF-style – plasma and LCD TVs are free).

Help Us Spread the Word!

I have enclosed some flyers about the event and would be happy to provide any additional marketing materials you are interested in (newsletter articles, ads, social media posts, etc.). More information about the Northland Recycling Extravaganza is also available at www.facebook.com/northlandrecyclingextravaganza.

Thank you for your help spreading the word about the Northland Recycling Extravaganza. Please feel free to contact me with any questions at mhauck@riversidemo.com or (816) 372-9023.

Sincerely,

A handwritten signature in black ink that reads "M. Hauck".

Meredith Hauck
City of Riverside, Missouri

EXHIBIT A-1



CITY OF PARKVILLE • 8880 Clark Avenue • Parkville, MO 64152 • (816) 741-7676 • FAX (816) 741-0013

City of Parkville

Work Authorization for Repair and Maintenance

Date: August 29, 2016

Issued to: Arbor Masters Tree & Landscape
8250 Cole Parkway
Shawnee Mission, KS 66227

Project/Work Description Tree Removal
Title: Sullivan Nature Center and Parkville Nature Sanctuary
Scope of Work/Purpose:

Table with 2 columns: Description and Amount. Rows include: 1. (Overlook) – Silver Maple – Broken hanging limb over trail \$ 320.00; 2. Remove fallen Maple (spanning across creek) \$1,840.00; 3. Prune deadwood in Picnic area \$ 480.00; Total \$2,640.00

Schedule and Price Unit prices as identified in On-Call Services Agreement dated 7/19/16

Project Start Date: 8/29/16
Estimated Completion Date: 9/30/16
Latest Acceptable Date: 9/30/16
Estimated Cost: \$2,640.00
Expenditure Limit: \$2,640.00
Budget Account Code: 10-535.06-05-03

Acceptance of this work authorization constitutes agreement to perform the work described above in accordance with the City of Parkville Terms and Conditions for maintenance projects.

Name/Title: Mark Cantrell Signature:
Company: Arbor Masters Tree & Landscape Date:

Authorization

Department Head: _____ Date: _____

City Administrator (if over \$1,000): _____ Date: _____

Mayor (if over \$2,500): _____ Date: _____

Nanette K. Johnston, Mayor

For Internal Staff Use Only

(initial each item and file with executed work authorization)

 NA Employment Eligibility Status Verification (if the cost exceeds \$5,000)

 X Certificate of Insurance that demonstrates compliance with the Terms and Conditions

 X Valid business license

CITY OF PARKVILLE Policy Report

Date: August 24, 2016

Prepared By:
Alysen Abel
Public Works Director

Reviewed By:
Tim Blakeslee
Assistant to the City Administrator

ISSUE:

Items related to the English Landing Restroom Rehabilitation:

1. Approve a construction agreement with Across the Board Contracting, LLC for the carpentry work;
2. Approve a construction agreement with Full Nelson Plumbing, Inc. for the plumbing work;
3. Approve a construction agreement with Action Concrete Const. for the site construction work.

BACKGROUND:

In March 2015, the City received an Outreach Grant from Platte County Parks and Recreation for the improvements to the English Landing Park restrooms. In July 2015, the Board of Aldermen approved a professional services contract with Williams, Spurgeon, Kuhl & Freshnock (WSKF) for the architectural services of the English Landing Park Restroom and Parks Storage Building. The architect's estimate to construct the new restroom was \$197,871. In February 2016, bids were received from seven contractors; the lowest total bid including alternates was \$306,560, which was 35% over the architect's estimate. Because the bids exceeded the budget by such a large amount, the Board of Aldermen directed staff to reject all bids and form a small committee to discuss the next steps related to the restroom project.

The small committee was comprised of Mayor Nan Johnston, two aldermen (Diane Driver and Marc Sportsman), two Community Land & Recreation Board (CLARB) representatives (Adam Zink and Phil Wassmer), contract City Engineer Jay Norco, Public Works Director Alysen Abel, Director of Operations Alan Schank, Park Superintendent Tom Barnard, and John Freshnock of WSKF. The committee decided that the best option was to rehabilitate the existing restroom facility rather than attempt a complete reconstruction. In order to keep the County's Outreach Grant, the restroom needs to be fully rehabilitated. Staff had preliminary discussions with the County staff associated with the rehabilitation plan. County staff supports the rehabilitation plan, assuming that the restroom meets the Americans with Disabilities Act (ADA) requirement, including restrooms and sidewalks, and provides a full remodel of the interior features. The proposed restroom plan was provided to County staff for their review.

The rehabilitation of the restroom was split into a three-tiered plan: Tier 1 includes basic restroom maintenance and sidewalk improvements; Tier 2 includes all of Tier 1 as well as improvements to the roof; and Tier 3 includes all of Tier 2 and exterior façade improvements. After consideration of the remaining budget for this project, discussion within the Public Works staff, and input from WSKF architects, staff recommended moving forward with the Tier 1 improvements at the current time. Tier 2 and Tier 3 improvements may be completed at a future date when sufficient funding allows. Realistically, only the Tier 1 improvements could be completed by the November 1, 2016 grant deadline.

On June 21, 2016, the Board of Aldermen authorized staff to release the bid request for the English Landing Restroom Rehabilitation Project. Staff prepared the bid documents that

ITEM 4E

For 08-29-16

Board of Aldermen - Finance Committee Meeting

included a comprehensive bid form (Attachment 1), listing each feature individually. The bid form is also split up into four sections to allow contractors to bid on one or more sections based on their construction trade skills. The City intended to act as the general contractor and to secure individual subcontractors to help reduce costs.

On July 14, 2016, the City received one bid from a subcontractor for the electrical portion of the improvements. After presenting this item to the Finance Committee on July 25, 2016, the City Administrator executed a contract with Merrill Industrial Electric for the electrical improvements to the ELP Restroom in the amount of \$1,954.

On August 2, 2016, the Board of Aldermen authorized staff to obtain three quotes from the other trades listed in the bid request (carpentry, plumbing, and site construction). Since that time, staff has obtained the following quotes from contractors:

Carpentry: The quotes for the carpentry work are included in Attachment 2. The low bidder was Across the Board Contracting. Their base bid included sales tax, the adjusted base bid without materials sales tax was \$14,647.92. The bid documents included a bid alternate for the Tnemec flooring; Across the Board Contracting provided a bid for the flooring of \$4,542.00. The total cost for the base bid and flooring is \$19,189.92.

The owner of Across the Board Contracting is Steve Sloniker. His son, Logan, worked as a summer intern for Public Works. The quotes were obtained after Logan completed his internship. Since Logan is no longer an employee of the City, staff does not feel that this is a conflict of interest.

Plumbing: The quotes for the plumbing work are included in Attachment 4. The low bidder was Full Nelson Plumbing, with a bid of \$12,908.60. The bid documents included a bid alternate for the ADA water fountain with dog bowl; Full Nelson provided a bid for the fountain of \$6,892.00. The total cost for the base bid and fountain is \$19,800.60. Full Nelson has performed work for the City in the past and has provided satisfactory results.

Site Construction: Staff reached out to three contractors to obtain quotes for the site work, the list of companies is included in Attachment 6. Action Concrete was the only contractor to provide a quote, which was in the amount of \$7,480.00. When the rehabilitation was originally bid, the City received a quote from R.L. Phillips for general contracting services. Their price included \$17,000 for the site construction work. The quote provided by Action Concrete seems reasonable as a direct subcontractor price compared to the quote provided by the general contractor.

BUDGET IMPACT:

The 2016 Capital Improvement Program (CIP) includes \$210,000 for this project from three sources: \$40,000 (19%) – Outreach Grant; \$15,000 (7%) – Parks Donations Fund; and \$155,000 (74%) – Fewson Fund loan. WSKF and Public Works staff initially estimated that the Tier 1 improvements for the restroom would cost approximately \$65,000. The final costs associated with the English Landing Restroom Tier 1 rehabilitation are:

1. Electrical - \$1,954.00
2. Carpentry - \$19,189.92
3. Plumbing - \$19,800.60
4. Site Construction - \$7,480.00

ITEM 4E

For 08-29-16

Board of Aldermen - Finance Committee Meeting

The project is within the \$65,000 cost estimate, at a total project cost of \$48,424.52. Staff recommends utilizing the Outreach Grant and Parks Donations Fund as the funding sources for the project.

ALTERNATIVES:

1. Approve the construction agreements as proposed by staff.
2. Approve the construction agreements subject to revisions directed by the Finance Committee.
3. Do not approve the construction agreements and provide further direction to staff.
4. Postpone the item.

STAFF RECOMMENDATION:

Staff recommends approval of the following:

1. Construction Agreement with Across the Board Contracting, LLC in the amount of \$19,189.92 for the carpentry work and Tnemec flooring installation.
2. Construction Agreement with Full Nelson Plumbing in the amount of \$22,732.24 for the plumbing work and installation of the ADA drinking fountain with dog bowl.
3. Construction Agreement with Action Concrete in the amount of \$7,480.00 for the site construction work.

POLICY:

For the Across the Board Contracting and Full Nelson Plumbing Contracts:

The Purchasing Policy, Resolution No. 10-02-14, requires the Board of Aldermen to approve all purchases above \$10,000 upon recommendation of the Finance Committee.

For the Action Concrete Contract:

Per the Purchasing Policy, Resolution No. 10-02-14, the Finance Committee may authorize purchases up to \$10,000.

SUGGESTED MOTION:

I move to:

1. Recommend that the Board of Aldermen approve the construction agreement with Across the Board Contracting, LLC in the amount of \$19,189.92 for the carpentry work and Tnemec flooring installation for the English Landing Restroom rehabilitation;
2. Recommend that the Board of Aldermen approve the construction agreement with Full Nelson Plumbing in the amount of \$19,800.60 for the plumbing work and installation of the ADA drinking fountain with dog bowl for the English Landing Restroom rehabilitation;
3. Approve the construction agreement with Action Concrete in the amount of \$7,480.00 for the site construction work for the English Landing Restroom rehabilitation.

ATTACHMENTS:

1. Restroom Bid Form
2. Bid Tabulation – Carpentry
3. Construction Agreement – Across the Board Contracting (Carpentry)
4. Bid Tabulation – Plumbing
5. Construction Agreement – Full Nelson Plumbing (Plumbing)
6. Bid Tabulation – Site Construction
7. Construction Agreement – Action Concrete (Site Construction)

Contractor Needed	Suggested Change	Quantity	Material Unit Cost	Labor	Total
**Plumber	Move rough-in plumbing to provide ADA access	2			
	Install new toilet paper dispenser	3			
	Install ground mounted flush valve toilets	3			
	Install new urinals (one lower for ADA)	2			
	Install wall mounted ADA sinks w/ pipe wrap	2			
	Install boots on pipes under sink	2			
	Install sanitary napkin receptacles in stalls	2			
	Install new PVC pipe throughout restroom	1			
	*Alternate: Install freeze-proof outdoor water fountain	1	See Alternative #1 (next page)		
Total Plumbing Bid					
**Carpenter	Change door swing of stall to swing out	1			
	Move partition out to be ADA compliant	1			
	Install grab bars in stall (side and back)	2 sets			
	Install door stop on wall	2			
	New HM 3" door, frame and block wall w/ lintel	3			
	Install new partition between stalls	1			
	Install wall mounted changing tables	2			
	Install new bathroom mirrors over sink	2			
	*Alternative: TNEMEC Floor Covering	1	See Alternative #2 (next page)		
	Install new paper towel dispensers	2			
	Install new electric hand dryers	2			
Total Carpentry Bid					
**Electrician	Install LED can light retrofit for existing	6			
	Cover electrical wiring in utility room	1			
	Secure electrical box in utility room	1			
Total Electrical Bid					
**Site Contractor	Install new ADA sidewalk to McAfee Drive	1			
	Install splash guards for gutters	1			
	Truncated dome for sidewalk	1			
	New ADA sidewalk in area shown (1:20 slope)	1			
Total Site Construction Bid					

*Alternate fixture/component

**Can bid on individual sections only, depending on capabilities/specialties of contractors

BID TABULATION

2016 ELP RESTROOM REHAB
August 15, 2016, at 12:00 p.m.
CARPENTRY

<u>BIDDER</u>	<u>TOTAL</u>
Across the Board (Liberty, MO)	\$15,251.00 (includes tax) \$14,647.92 (w/out tax) * Tnemec - \$4,542.00 *
G&S Structural (Parkville, MO)	\$22,500.00 Tnemec - \$4,000.00
R.L. Phillips Const., Inc. (Raymore, MO)	\$30,000.00

(*) Recommended Award of Purchase

CONSTRUCTION SERVICES AGREEMENT

THIS SERVICE AGREEMENT, entered into on this 6th day of September 2016, by and between the CITY OF PARKVILLE, MISSOURI ("City") and ACROSS THE BOARD CONTRACTING, LLC ("Contractor").

WHEREAS, the City seeks to hire Contractor to provide certain construction services as described in Exhibit "A" to this Agreement (the "Construction Services"); and

WHEREAS, the City has budgeted funds to acquire the services necessary to complete the Construction Services; and

WHEREAS, Contractor has the necessary staff and qualifications to provide the Construction Services to the City.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term "Construction Services" when used in this Agreement shall mean any and all labor, material, equipment, insurance, surety bonds or other thing of value that may be required by this Agreement including its exhibits.
- B. The City agrees to retain Contractor and Contractor agrees to perform and complete the Construction Services described in the **Exhibit "A"** – Scope of Work, attached hereto and incorporated by reference.
- C. Service Provider represents it has all necessary skills, personnel, financial capacity, licenses, permits, knowledge, and certifications required to perform the Services described herein.

II. COMPENSATION

- A. As consideration for providing the Construction Services, the City shall pay Contractor as set forth in **Exhibit "A"**.
- B. Contractor shall submit its invoices to the City either at completion of the Project, or on such milestone or other interim terms as set forth on **Exhibit "A"**. Contractor's final invoice shall be accompanied by Waivers and Releases of Claim on the forms attached as **Exhibit "B-2"** to this Agreement, executed by Contractor and all subcontractors with contract values of \$5,000 or more, and notarized. If partial payments are authorized on **Exhibit "A"**, then Contractor shall submit partial waivers on the form attached as **Exhibit "B-1."** The City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Contractor of the nature of the dispute regarding the balance.
- C. Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

III. SCHEDULE

- A. Time is of the essence in performance of this Agreement.
- B. Unless otherwise directed by the City, Contractor shall commence performance of the Construction Services upon execution of this Agreement.
- C. Services shall be completed within the schedule set forth on **Exhibit "A"**.
- D. Neither the City nor the Contractor shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- E. If **Exhibit "A"** contains a provision for Liquidated Damages, it shall be because the parties have agreed that late Substantial Completion of the Construction Services by Contractor would cause irreparable harm to the City, which harm is difficult to quantify; and that the parties have agreed that the amount stated in **Exhibit "A"** for Liquidated Damages is a fair approximation of the daily costs that the City would incur for late Substantial Completion of the work.

IV. CHANGES

- A. The City reserves the right issue Changes, both additive and deductive, to the Scope of Work at the City's discretion. Contractor shall advise the City of additional costs and time delays, if any, resulting from such Changes, before Contractor performs the Changes. No adjustment to the Contract Time or Contract Price will be permitted unless Contractor has advised the City of the potential impact prior to commencing work on the Change, and the City either issues a Change Order which is agreed to by the parties, or the City directs the Contractor to proceed.
- B. Contractor shall provide Construction Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Contractor without the City's prior written consent shall be at the Contractor's own risk, cost, and expense, and Contractor shall not make a claim for compensation from the City for such work.

V. INDEMNIFICATION

- A. Contractor shall indemnify and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Contractor's negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Construction Services, including performance by Contractor's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials furnished by Contractor in the course of performance of the work, except to the extent that such claims arise from materials created or supplied by the City.
- B. Contractor's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Contractor whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

Contractor shall secure and maintain, at its expense, through the duration of this Agreement insurance as set forth on **Exhibit "C"**.

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Contractor's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Contractor.
- B. Unless otherwise stated in a Scope of Work Exhibit, Contractor shall be represented by a Superintendent or Foreman authorized to give and receive all instruction and notices from and to the City at all times while performing Construction Services, and shall have on site a person who is fluent in all languages necessary to communicate instructions regarding the Work and information regarding medical emergencies with Contractor's employees and subcontractors.
- C. All of the Construction Services required hereunder will be performed by the Contractor or under Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement including, but not limited to, indemnification, insurance and warranties.
- E. Contractor and all subcontractors with a contract value of \$5,000 or more shall execute affidavits on the form attached as **Exhibit "D"**, attesting to their compliance with § 285.530.5 R.S. Mo. concerning compliance with Missouri's Worker Eligibility requirements.
- F. Contractor and all subcontractors must require all on-site employees to complete the ten-hour construction training program required under Section 292.675 RSMo. unless they have previously completed the program and have documentation of having done so. Contractor shall execute the affidavit attached as **Exhibit "E"**, attesting that it has provided OSHA safety training for its on-site employees. Contractor will forfeit a penalty to the City of \$2,500 plus an additional \$100 for each employee employed by Contractor or any subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. See Section 292.675 RSMo.
- G. While upon City premises, the Contractor's employees and agents shall be subject to the City's rules and regulations respecting its property and the conduct of employees thereon.

VIII. WARRANTY

- A. The Contractor warrants to the City that materials and equipment furnished under the Contract will be of good quality and new unless the Scope of Work documents require or permit otherwise. All manufacturer's warranties shall be assignable to the City. The Contractor further warrants that the work will conform to the requirements of the Scope of Work documents and will be free from defects, except for those inherent in the quality of the Work which the Scope of Work documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by

abuse, alterations to the work not executed by the Contractor or its subcontractors or suppliers, improper or insufficient maintenance or improper operation. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranties required by the Agreement (express and implied) shall remain in full force and effect even if a material or equipment item is required by the Owner to be manufactured by a specific entity, and no other equivalent product manufactured by any other entity is acceptable.

- B. The Contractor's warranty in Section VIII.A. shall not be construed to replace, change or otherwise limit any statutory or common law warranty rights of the Owner, or any other Contract requirements.

IX. OWNERSHIP OF WORK PRODUCT

Contractor agrees that any documents, materials and/or work products produced in whole or in part by or through it under this Agreement, any intellectual property rights of Contractor therein (collectively the "Works") are intended to be owned by the City. Accordingly, Contractor hereby assigns and agrees to assign to the City all of its right title and interest in and to such Works.

X. RELATIONSHIP OF THE PARTIES

Contractor represents that it is an independent contractor and that no personnel performing any of the Construction Services shall be employees of or have any contractual relationship with the City.

XI. PREVAILING WAGES

- A. Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made a part of the specifications for work under this Agreement as **Exhibit "F-1"** which will be provided at contract execution; shall be paid to workers performing work under the Agreement (See, Sections 290.250 and 290.325 R.S. Mo.)
- B. Contractor will forfeit a penalty to the City of \$100 per day (or portion of a day) for each worker who is paid less than the prevailing rate for any work done under the Agreement by Contractor or any Subcontractor (see Section 290.250 RSMo; for detailed information on rules and occupational titles, see 8 CSR 30-3.010 through 3.060.)
- C. Contractor shall maintain such required data on Form LS-57, **Exhibit "F-2"**, using the Instruction sheet issued by the Missouri Department of Labor and Industrial Relations, LS-57-3, **Exhibit "F-3"**, both of which are also available at, and shall further submit on a monthly basis, a Payroll Certification form attached to this Contract as **Exhibit "F-4"**, attesting to the completeness and accuracy of the data on the Certified Payrolls. Contractor shall also post notices and identify its vehicles as provided by the Prevailing Wage Requirements.
- D. Contractor further agrees to indemnify, defend and hold harmless the City from and against any claim, liability, assessment, fine, penalty or other cost, including attorney's fees, which may be asserted against or incurred by the City as a result of an allegation that Contractor has not complied with these Prevailing Wage Requirements, whether such claim is asserted by a worker or by the Division of Labor Standards or any other entity. This indemnification shall survive termination of this Contract.

XII. NOTICES

- A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:
- B. Notices sent by Contractor shall be sent to:
City of Parkville
Attn: Lauren Palmer, City Administrator
8880 Clark Ave.
Parkville, MO 64152
816-741-7676
lpalmer@parkvillemo.gov
- C. Notices sent by the City shall be sent to:
Across The Board Contracting, LLC
Attn: Steve Sloniker
1220 Pheasant Court
Liberty, MO 64068
816-935-9670
SteveSloniker@hotmail.com

XIII. CORRECTION OF WORK

The Contractor shall promptly correct work rejected by the City or failing to conform to the requirements of the Agreement, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for services and expenses of a designer made necessary thereby, shall be at the Contractor's expense. If the Contractor fails to correct nonconforming Work within ten (10) days after receipt of written notice from the City, the City may correct it at Contractor's expense.

XIV. TERM AND TERMINATION

- A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.
- B. Notwithstanding anything to the contrary in this Agreement or exhibit, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days' written notice to the Contractor. The City shall compensate Contractor for the Construction Services that have been completed to the City's satisfaction as of the date of termination. Contractor shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.
- C. The City may terminate the Agreement for cause if the Contractor:
1. refuses or fails to supply enough properly skilled workers or proper materials;
 2. fails to make payment to Subcontractors for materials, equipment, services or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 3. disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

4. its Subcontractors or Sub-subcontractors causes a work stoppage due to any strike, picket, boycott or participates in any voluntary or involuntary cessation of Work; or
 5. otherwise is guilty of substantial breach of a provision of the Agreement.
- D. When any of the above reasons exist, the City may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate the Agreement and may, subject to any prior rights of the surety, if any:
1. Exclude the Contractor from the Project site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 2. Direct the work of subcontractors; and
 3. Finish the Work by whatever reasonable method the City may deem expedient. Upon written request of the Contractor, the City shall furnish to the Contractor a detailed accounting of the costs incurred by the City in finishing the Work.

When the Owner terminates the Agreement for one of the reasons stated above, the Contractor shall not be entitled to receive further payment until the Work is finished.

If the unpaid balance of the Contract Price exceeds costs of finishing the Work, including compensation for the services and expenses of a designer, and legal, consultant and testing fees made necessary thereby, and other damages incurred by the City and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor or its surety, if any, shall pay the difference to the City upon demand. The obligation for payment, if any, shall survive termination of the Agreement.

XV. RESOLUTION OF DISPUTES

- A. Should the Contractor believe that it is entitled to any relief due to errors, omissions or defects in the Plans or Specifications, or as a result of any act or omission of an independent contractor designer in connection with the Project, the City shall cooperate with the Contractor by permitting the Contractor to pursue legal action against the designer in the name of the City at Contractor's sole risk and expense as the City would otherwise have against such designer. The City shall pay to Contractor such sums as may be recovered from the designer on behalf of Contractor. Other than this duty of cooperation and remittance, the City shall have no liability or obligation to Contractor for any act, error, omission, negligence or breach of duty by a designer.
- B. City and Contractor agree that disputes relative to the Work shall first be addressed by negotiations between the parties. Such negotiations shall take place within thirty (30) days of demand by the party seeking resolution of the dispute. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the Work as per the Contract Documents as if no dispute existed.
- C. In order to preserve its rights to dispute a matter hereunder, the complaining party must submit a written notice to the other party setting forth the basis for its complaint

within twenty (20) calendar days following receipt of the decision of the City Public Works Director as to such matter or other action on which the dispute is based. A decision of the City Public Works Director (where appropriate) under GC-7 above; notice of dispute, and direct negotiation, shall be conditions precedent to further action.

D. Arbitration of disputes.

1. Claims, except those waived as provided for elsewhere in this Agreement, which have not been resolved by the procedures described above, shall be decided by arbitration which, unless the parties mutually agree otherwise, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association.
2. A demand for arbitration may be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.
3. An arbitration pursuant to this Section may be joined with an arbitration involving common issues of law or fact between the City or Contractor and any person or entity with whom the City or Contractor has a contractual obligation to arbitrate disputes which does not prohibit consolidation or joinder. No other arbitration arising out of or relating to the Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to the Contract or not a party to an agreement with the City Contractor, except by written consent containing a specific reference to the Agreement signed by the City and Contractor and any other person or entities sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to the Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.
4. Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.
5. Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

XVI. MISCELLANEOUS PROVISIONS

- A. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. Assignability. Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

- C. Media Announcements. Contractor shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City
- D. Compliance with Local Laws. Contractor shall comply with all applicable laws, ordinances, and codes of the State of Missouri and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:
 - 1. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, 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.
 - 2. Contractor will, in all solicitation or advertisements for employees placed by or on behalf of Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - 3. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and Contractor shall take appropriate steps to assure compliance.
- G. Interest of Contractor and Employees. Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- H. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Contractor, and attached hereto.
- I. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or enforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- J. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.

- K. Third Parties. The Services to be performed by the Contractor are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston, Mayor

ATTEST:

Melissa McChesney, City Clerk

ACROSS THE BOARD CONTRACTING, LLC

By: _____
Steve Sloniker

Exhibit A

SCOPE OF WORK AND PRICING AGREEMENT

1. Provide rehabilitative construction work as shown on Sheet A1.01 dated 06/14/2016 as prepared by John Freshnock with Williams, Spurgeon, Kuhl & Freshnock Architecture and entitled "Rehabilitative Construction Work on the English Landing Park Public Restroom" at English Landing Park, Parkville, Missouri.
2. All work shall comply in every respect with the building laws, City regulations, and code requirements.
3. Contractor shall have/obtain a City of Parkville Business License.
4. If there are any questions regarding the work that is to be done, it will be the responsibility of the Contractor to contact the designated City representative and request clarifications before proceeding.
5. Upon completion of the work, and approval of such work by the City, Contractor shall submit an invoice in accordance with provisions set forth in this Agreement.
6. Contractor shall supply Superintendent or Foreman contract information including cell phone number and email information.
7. It is mutually understood and agreed by and between the parties to this Contract that in the event that the Contractor shall fail in the performance of the Work specified and required to be performed within the period of time stipulated therefor in the Contract, Contractor shall be assessed \$100.00 per calendar day passed the substantial completion date identified in this Agreement.
8. The scope of work included in this contract shall be completed within (45) forty-five days of contract execution.

The contract price for the Carpentry Work at the English Landing Park Restroom is Nineteen Thousand One Hundred Eighty-Nine Dollars and 92/00 (\$19,189.92).

Exhibit A-1

DETAILED BID TABULATION

<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
4a. Remove Handicap Grab Bar – Stainless Steel, 1 ½" x 48"	4 EA	\$11.41	\$45.64
4b. Install Handicap Grab Bar – Stainless Steel, 1 ½" x 48"	4 EA	\$150.43	\$601.72
5a. Remove Bathroom mirror - w/metal frame - surface mtd - Commercial	16 SF	\$1.37	\$21.92
5b. Install Bathroom mirror - w/metal frame - surface mtd - Commercial	16 SF	\$42.00	\$672.00
2a. Remove Toilet partition - oversized/handicap - Premium grade	2 EA	\$114.49	\$228.98
2b. Install Toilet partition - oversized/handicap - Premium grade	2 EA	\$2,041.39	\$4,082.78
6a. Remove Paper towel dispenser with waste receptacle	2 EA	\$25.92	\$51.84
6B. Paper towel dispenser with waste receptacle	2 EA	\$381.94	\$763.88
7a. Remove Steel Door 3' x 7' - fire rated	3 EA	\$11.41	\$34.23
7b. Steel Door 3' x 7' – fire rated	3 EA	\$868.98	\$2,606.94
8a. Remove Door stop – wall or floor mounted	3 EA	\$3.81	\$11.43
8B. Door stop – wall or floor mounted	3 EA	\$30.85	\$92.55
3a. Remove Hot air hand dryer- High grade	2 EA	\$34.33	\$68.66
3b. Hot air hand dryer – High grade	2 EA	\$851.02	\$1,702.04
9a. Remove Brick lintel – steel	9 LF	\$1.56	\$14.04
9b. Brick lintel – steel	9 LF	\$37.83	\$340.47
10. Carpenter – General Framers – per hour	64 HR	\$51.70	\$3,308.80
SUBTOTAL			\$14,647.92
ALTERNATE: TNEMEC FLOORING	1 LS	\$4,542.00	\$4,542.00
GRAND TOTAL			\$19,189.92

*Note: The contractor is responsible for any repairs necessary from any removals or replacements associated with their trade.

BID TABULATION

2016 ELP RESTROOM REHAB PLUMBING

August 15, 2016, at 12:00 p.m.

<u>BIDDER</u>	<u>TOTAL</u>
Full Nelson Plumbing (Kansas City, MO)	\$12,908.60 * Fountain - \$6,892.00 *
Pryor Mechanical (Smithville, MO)	\$15,891.00 Fountain - \$5,298.00
Plumbing by Fischer (DeSoto, KS)	Declined
G&S Structural (Parkville, MO)	\$21,000.00 Fountain - \$500.00 (Owner Supplied)

(*) Recommended Award of Purchase

CONSTRUCTION SERVICES AGREEMENT

THIS SERVICE AGREEMENT, entered into on this 6th day of September 2016, by and between the CITY OF PARKVILLE, MISSOURI ("City") and FULL NELSON PLUMBING, INC. ("Contractor").

WHEREAS, the City seeks to hire Contractor to provide certain construction services as described in Exhibit "A" to this Agreement (the "Construction Services"); and

WHEREAS, the City has budgeted funds to acquire the services necessary to complete the Construction Services; and

WHEREAS, Contractor has the necessary staff and qualifications to provide the Construction Services to the City.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term "Construction Services" when used in this Agreement shall mean any and all labor, material, equipment, insurance, surety bonds or other thing of value that may be required by this Agreement including its exhibits.
- B. The City agrees to retain Contractor and Contractor agrees to perform and complete the Construction Services described in the **Exhibit "A"** – Scope of Work, attached hereto and incorporated by reference.
- C. Service Provider represents it has all necessary skills, personnel, financial capacity, licenses, permits, knowledge, and certifications required to perform the Services described herein.

II. COMPENSATION

- A. As consideration for providing the Construction Services, the City shall pay Contractor as set forth in **Exhibit "A"**.
- B. Contractor shall submit its invoices to the City either at completion of the Project, or on such milestone or other interim terms as set forth on **Exhibit "A"**. Contractor's final invoice shall be accompanied by Waivers and Releases of Claim on the forms attached as **Exhibit "B-2"** to this Agreement, executed by Contractor and all subcontractors with contract values of \$5,000 or more, and notarized. If partial payments are authorized on **Exhibit "A"**, then Contractor shall submit partial waivers on the form attached as **Exhibit "B-1."** The City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Contractor of the nature of the dispute regarding the balance.
- C. Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

III. SCHEDULE

- A. Time is of the essence in performance of this Agreement.
- B. Unless otherwise directed by the City, Contractor shall commence performance of the Construction Services upon execution of this Agreement.
- C. Services shall be completed within the schedule set forth on **Exhibit "A"**.
- D. Neither the City nor the Contractor shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- E. If **Exhibit "A"** contains a provision for Liquidated Damages, it shall be because the parties have agreed that late Substantial Completion of the Construction Services by Contractor would cause irreparable harm to the City, which harm is difficult to quantify; and that the parties have agreed that the amount stated in **Exhibit "A"** for Liquidated Damages is a fair approximation of the daily costs that the City would incur for late Substantial Completion of the work.

IV. CHANGES

- A. The City reserves the right issue Changes, both additive and deductive, to the Scope of Work at the City's discretion. Contractor shall advise the City of additional costs and time delays, if any, resulting from such Changes, before Contractor performs the Changes. No adjustment to the Contract Time or Contract Price will be permitted unless Contractor has advised the City of the potential impact prior to commencing work on the Change, and the City either issues a Change Order which is agreed to by the parties, or the City directs the Contractor to proceed.
- B. Contractor shall provide Construction Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Contractor without the City's prior written consent shall be at the Contractor's own risk, cost, and expense, and Contractor shall not make a claim for compensation from the City for such work.

V. INDEMNIFICATION

- A. Contractor shall indemnify and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Contractor's negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Construction Services, including performance by Contractor's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials furnished by Contractor in the course of performance of the work, except to the extent that such claims arise from materials created or supplied by the City.
- B. Contractor's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Contractor whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

Contractor shall secure and maintain, at its expense, through the duration of this Agreement insurance as set forth on **Exhibit "C"**.

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Contractor's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Contractor.
- B. Unless otherwise stated in a Scope of Work Exhibit, Contractor shall be represented by a Superintendent or Foreman authorized to give and receive all instruction and notices from and to the City at all times while performing Construction Services, and shall have on site a person who is fluent in all languages necessary to communicate instructions regarding the Work and information regarding medical emergencies with Contractor's employees and subcontractors.
- C. All of the Construction Services required hereunder will be performed by the Contractor or under Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement including, but not limited to, indemnification, insurance and warranties.
- E. Contractor and all subcontractors with a contract value of \$5,000 or more shall execute affidavits on the form attached as **Exhibit "D"**, attesting to their compliance with § 285.530.5 R.S. Mo. concerning compliance with Missouri's Worker Eligibility requirements.
- F. Contractor and all subcontractors must require all on-site employees to complete the ten-hour construction training program required under Section 292.675 RSMo. unless they have previously completed the program and have documentation of having done so. Contractor shall execute the affidavit attached as **Exhibit "E"**, attesting that it has provided OSHA safety training for its on-site employees. Contractor will forfeit a penalty to the City of \$2,500 plus an additional \$100 for each employee employed by Contractor or any subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. See Section 292.675 RSMo.
- G. While upon City premises, the Contractor's employees and agents shall be subject to the City's rules and regulations respecting its property and the conduct of employees thereon.

VIII. WARRANTY

- A. The Contractor warrants to the City that materials and equipment furnished under the Contract will be of good quality and new unless the Scope of Work documents require or permit otherwise. All manufacturer's warranties shall be assignable to the City. The Contractor further warrants that the work will conform to the requirements of the Scope of Work documents and will be free from defects, except for those inherent in the quality of the Work which the Scope of Work documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by

abuse, alterations to the work not executed by the Contractor or its subcontractors or suppliers, improper or insufficient maintenance or improper operation. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranties required by the Agreement (express and implied) shall remain in full force and effect even if a material or equipment item is required by the Owner to be manufactured by a specific entity, and no other equivalent product manufactured by any other entity is acceptable.

- B. The Contractor's warranty in Section VIII.A. shall not be construed to replace, change or otherwise limit any statutory or common law warranty rights of the Owner, or any other Contract requirements.

IX. OWNERSHIP OF WORK PRODUCT

Contractor agrees that any documents, materials and/or work products produced in whole or in part by or through it under this Agreement, any intellectual property rights of Contractor therein (collectively the "Works") are intended to be owned by the City. Accordingly, Contractor hereby assigns and agrees to assign to the City all of its right title and interest in and to such Works.

X. RELATIONSHIP OF THE PARTIES

Contractor represents that it is an independent contractor and that no personnel performing any of the Construction Services shall be employees of or have any contractual relationship with the City.

XI. PREVAILING WAGES

- A. Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made a part of the specifications for work under this Agreement as **Exhibit "F-1"** which will be provided at contract execution; shall be paid to workers performing work under the Agreement (See, Sections 290.250 and 290.325 R.S. Mo.)
- B. Contractor will forfeit a penalty to the City of \$100 per day (or portion of a day) for each worker who is paid less than the prevailing rate for any work done under the Agreement by Contractor or any Subcontractor (see Section 290.250 RSMo; for detailed information on rules and occupational titles, see 8 CSR 30-3.010 through 3.060.)
- C. Contractor shall maintain such required data on Form LS-57, **Exhibit "F-2"**, using the Instruction sheet issued by the Missouri Department of Labor and Industrial Relations, LS-57-3, **Exhibit "F-3"**, both of which are also available at, and shall further submit on a monthly basis, a Payroll Certification form attached to this Contract as **Exhibit "F-4"**, attesting to the completeness and accuracy of the data on the Certified Payrolls. Contractor shall also post notices and identify its vehicles as provided by the Prevailing Wage Requirements.
- D. Contractor further agrees to indemnify, defend and hold harmless the City from and against any claim, liability, assessment, fine, penalty or other cost, including attorney's fees, which may be asserted against or incurred by the City as a result of an allegation that Contractor has not complied with these Prevailing Wage Requirements, whether such claim is asserted by a worker or by the Division of Labor Standards or any other entity. This indemnification shall survive termination of this Contract.

XII. NOTICES

A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:

B. Notices sent by Contractor shall be sent to:

City of Parkville
Attn: Lauren Palmer, City Administrator
8880 Clark Ave.
Parkville, MO 64152
816-741-7676
lpalmer@parkvillemo.gov

C. Notices sent by the City shall be sent to:

Full Nelson Plumbing, Inc.
Attn: Shawn Mansell
1628 N. Corrington
Kansas City, MO 64120
816-420-9697
customerservice@fullnelsoninc.com

XIII. CORRECTION OF WORK

The Contractor shall promptly correct work rejected by the City or failing to conform to the requirements of the Agreement, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for services and expenses of a designer made necessary thereby, shall be at the Contractor's expense. If the Contractor fails to correct nonconforming Work within ten (10) days after receipt of written notice from the City, the City may correct it at Contractor's expense.

XIV. TERM AND TERMINATION

A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.

B. Notwithstanding anything to the contrary in this Agreement or exhibit, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days' written notice to the Contractor. The City shall compensate Contractor for the Construction Services that have been completed to the City's satisfaction as of the date of termination. Contractor shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.

C. The City may terminate the Agreement for cause if the Contractor:

1. refuses or fails to supply enough properly skilled workers or proper materials;
2. fails to make payment to Subcontractors for materials, equipment, services or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
3. disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

4. its Subcontractors or Sub-subcontractors causes a work stoppage due to any strike, picket, boycott or participates in any voluntary or involuntary cessation of Work; or
 5. otherwise is guilty of substantial breach of a provision of the Agreement.
- D. When any of the above reasons exist, the City may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate the Agreement and may, subject to any prior rights of the surety, if any:
1. Exclude the Contractor from the Project site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 2. Direct the work of subcontractors; and
 3. Finish the Work by whatever reasonable method the City may deem expedient. Upon written request of the Contractor, the City shall furnish to the Contractor a detailed accounting of the costs incurred by the City in finishing the Work.

When the Owner terminates the Agreement for one of the reasons stated above, the Contractor shall not be entitled to receive further payment until the Work is finished.

If the unpaid balance of the Contract Price exceeds costs of finishing the Work, including compensation for the services and expenses of a designer, and legal, consultant and testing fees made necessary thereby, and other damages incurred by the City and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor or its surety, if any, shall pay the difference to the City upon demand. The obligation for payment, if any, shall survive termination of the Agreement.

XV. RESOLUTION OF DISPUTES

- A. Should the Contractor believe that it is entitled to any relief due to errors, omissions or defects in the Plans or Specifications, or as a result of any act or omission of an independent contractor designer in connection with the Project, the City shall cooperate with the Contractor by permitting the Contractor to pursue legal action against the designer in the name of the City at Contractor's sole risk and expense as the City would otherwise have against such designer. The City shall pay to Contractor such sums as may be recovered from the designer on behalf of Contractor. Other than this duty of cooperation and remittance, the City shall have no liability or obligation to Contractor for any act, error, omission, negligence or breach of duty by a designer.
- B. City and Contractor agree that disputes relative to the Work shall first be addressed by negotiations between the parties. Such negotiations shall take place within thirty (30) days of demand by the party seeking resolution of the dispute. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the Work as per the Contract Documents as if no dispute existed.
- C. In order to preserve its rights to dispute a matter hereunder, the complaining party must submit a written notice to the other party setting forth the basis for its complaint

within twenty (20) calendar days following receipt of the decision of the City Public Works Director as to such matter or other action on which the dispute is based. A decision of the City Public Works Director (where appropriate) under GC-7 above; notice of dispute, and direct negotiation, shall be conditions precedent to further action.

D. Arbitration of disputes.

1. Claims, except those waived as provided for elsewhere in this Agreement, which have not been resolved by the procedures described above, shall be decided by arbitration which, unless the parties mutually agree otherwise, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association.
2. A demand for arbitration may be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.
3. An arbitration pursuant to this Section may be joined with an arbitration involving common issues of law or fact between the City or Contractor and any person or entity with whom the City or Contractor has a contractual obligation to arbitrate disputes which does not prohibit consolidation or joinder. No other arbitration arising out of or relating to the Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to the Contract or not a party to an agreement with the City Contractor, except by written consent containing a specific reference to the Agreement signed by the City and Contractor and any other person or entities sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to the Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.
4. Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.
5. Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

XVI. MISCELLANEOUS PROVISIONS

- A. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. Assignability. Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

- C. Media Announcements. Contractor shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City
- D. Compliance with Local Laws. Contractor shall comply with all applicable laws, ordinances, and codes of the State of Missouri and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:
 - 1. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, 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.
 - 2. Contractor will, in all solicitation or advertisements for employees placed by or on behalf of Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - 3. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and Contractor shall take appropriate steps to assure compliance.
- G. Interest of Contractor and Employees. Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- H. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Contractor, and attached hereto.
- I. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or enforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- J. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.

- K. Third Parties. The Services to be performed by the Contractor are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston, Mayor

ATTEST:

Melissa McChesney, City Clerk

FULL NELSON PLUMBING, INC.

By: _____
Shawn Mansell

Exhibit A

SCOPE OF WORK AND PRICING AGREEMENT

1. Provide rehabilitative construction work as shown on Sheet A1.01 dated 06/14/2016 as prepared by John Freshnock with Williams, Spurgeon, Kuhl & Freshnock Architecture and entitled "Rehabilitative Construction Work on the English Landing Park Public Restroom" at English Landing Park, Parkville, Missouri.
2. All work shall comply in every respect with the building laws, City regulations, and code requirements.
3. Contractor shall have/obtain a City of Parkville Business License.
4. If there are any questions regarding the work that is to be done, it will be the responsibility of the Contractor to contact the designated City representative and request clarifications before proceeding.
5. Upon completion of the work, and approval of such work by the City, Contractor shall submit an invoice in accordance with provisions set forth in this Agreement.
6. Contractor shall supply Superintendent or Foreman contract information including cell phone number and email information.
7. It is mutually understood and agreed by and between the parties to this Contract that in the event that the Contractor shall fail in the performance of the Work specified and required to be performed within the period of time stipulated therefor in the Contract, Contractor shall be assessed \$100.00 per calendar day passed the substantial completion date identified in this Agreement.
8. The scope of work included in this contract shall be completed within (45) forty-five days of contract execution.

The contract price for the Plumbing Work at the English Landing Park Restroom is Nineteen Thousand Eight Hundred Dollars and 60/00 (\$19,800.60).

Exhibit A-1

DETAILED BID TABULATION

<u>Description</u>	<u>Quantity</u>	<u>Total Price</u>
Move Rough-In Plumbing to provide ADA Access	2 EA	\$1,825.56
Install new toilet paper dispenser	3 EA	\$667.89
Install Ground Mounted Flush Valve Toilets	3 EA	\$2,760.44
Install New Urinals (one lower for ADA)	2 EA	\$1,895.82
Install wall mounted ADA sinks w/ pipe wrap	2 EA	\$1,708.05
Install boots on pipe under sink	2 EA	\$208.23
Install sanitary napkin receptacles in stalls	2 EA	\$262.23
Install new PVC pipe throughout restroom	1 LS	\$3,580.38
SUBTOTAL		\$12,908.60
ALTERNATE: Install Freeze-Proof Outdoor Water Fountain	1 EA	\$6,892.00
GRAND TOTAL		\$19,800.60

*Note: The contractor is responsible for any repairs necessary from any removals or replacements associated with their trade.

BID TABULATION

2016 ELP RESTROOM REHAB SITE CONSTRUCTION

August 15, 2016, at 12:00 p.m.

<u>BIDDER</u>	<u>TOTAL</u>
Action Concrete (Liberty, MO)	\$7,480.00 *
K&E Flatwork (Kansas City, MO)	Declined
Mark Meade (Kansas City, MO)	No Response
G&S Structural (Parkville, MO)	\$11,200.00
R.L. Phillips Const., Inc. (Raymore, MO)	\$17,000.00

(*) Recommended Award of Purchase

CONSTRUCTION SERVICES AGREEMENT

THIS SERVICE AGREEMENT, entered into on this 29th day of August 2016, by and between the CITY OF PARKVILLE, MISSOURI ("City") and ACTION CONCRETE CONSTRUCTION, INC. ("Contractor").

WHEREAS, the City seeks to hire Contractor to provide certain construction services as described in Exhibit "A" to this Agreement (the "Construction Services"); and

WHEREAS, the City has budgeted funds to acquire the services necessary to complete the Construction Services; and

WHEREAS, Contractor has the necessary staff and qualifications to provide the Construction Services to the City.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements set forth herein, the parties mutually agree as follows:

I. SCOPE OF SERVICES

- A. The term "Construction Services" when used in this Agreement shall mean any and all labor, material, equipment, insurance, surety bonds or other thing of value that may be required by this Agreement including its exhibits.
- B. The City agrees to retain Contractor and Contractor agrees to perform and complete the Construction Services described in the **Exhibit "A"** – Scope of Work, attached hereto and incorporated by reference.
- C. Service Provider represents it has all necessary skills, personnel, financial capacity, licenses, permits, knowledge, and certifications required to perform the Services described herein.

II. COMPENSATION

- A. As consideration for providing the Construction Services, the City shall pay Contractor as set forth in **Exhibit "A"**.
- B. Contractor shall submit its invoices to the City either at completion of the Project, or on such milestone or other interim terms as set forth on **Exhibit "A"**. Contractor's final invoice shall be accompanied by Waivers and Releases of Claim on the forms attached as **Exhibit "B-2"** to this Agreement, executed by Contractor and all subcontractors with contract values of \$5,000 or more, and notarized. If partial payments are authorized on **Exhibit "A"**, then Contractor shall submit partial waivers on the form attached as **Exhibit "B-1."** The City agrees to pay the balance of an approved invoice, or undisputed portions of a disputed invoice, within 30 days of the date of receipt by the City. In the event of a dispute, and prior to the invoice's due date, City shall pay the undisputed portion of the invoice and notify Contractor of the nature of the dispute regarding the balance.
- C. Contractor shall maintain accounts and records, including personnel, property, and financial records, adequate to identify and account for all costs pertaining to the Agreement and such other records as may be deemed necessary by the City to assure proper accounting for all funds. These records will be made available for audit purposes to the City or any authorized representative, and will be retained for three years after the expiration of this Agreement unless permission to destroy them is granted by the City.

III. SCHEDULE

- A. Time is of the essence in performance of this Agreement.
- B. Unless otherwise directed by the City, Contractor shall commence performance of the Construction Services upon execution of this Agreement.
- C. Services shall be completed within the schedule set forth on **Exhibit "A"**.
- D. Neither the City nor the Contractor shall be in default of the Agreement for delays in performance caused by circumstances beyond the reasonable control of the non-performing party.
- E. If **Exhibit "A"** contains a provision for Liquidated Damages, it shall be because the parties have agreed that late Substantial Completion of the Construction Services by Contractor would cause irreparable harm to the City, which harm is difficult to quantify; and that the parties have agreed that the amount stated in **Exhibit "A"** for Liquidated Damages is a fair approximation of the daily costs that the City would incur for late Substantial Completion of the work.

IV. CHANGES

- A. The City reserves the right issue Changes, both additive and deductive, to the Scope of Work at the City's discretion. Contractor shall advise the City of additional costs and time delays, if any, resulting from such Changes, before Contractor performs the Changes. No adjustment to the Contract Time or Contract Price will be permitted unless Contractor has advised the City of the potential impact prior to commencing work on the Change, and the City either issues a Change Order which is agreed to by the parties, or the City directs the Contractor to proceed.
- B. Contractor shall provide Construction Services under this Agreement only upon written request of the City and only to the extent defined and required by the City. Any additional services or materials provided by the Contractor without the City's prior written consent shall be at the Contractor's own risk, cost, and expense, and Contractor shall not make a claim for compensation from the City for such work.

V. INDEMNIFICATION

- A. Contractor shall indemnify and hold harmless the City and its departments, elected officials, officers, employees and agents, from and against all liability, suits, actions, proceedings, judgments, claims, losses, damages, and injuries (including attorneys' fees and other expenses of litigation, arbitration, mediation or appeal), which in whole or in part arise out of or have been connected with Contractor's negligence, error, omission, recklessness, or wrongful or criminal conduct in the performance of Construction Services, including performance by Contractor's employees and agents; or arising from any claim for libel, slander, defamation, copyright infringement, invasion of privacy, piracy and/or plagiarism related to any materials related to materials furnished by Contractor in the course of performance of the work, except to the extent that such claims arise from materials created or supplied by the City.
- B. Contractor's obligation to indemnify and hold harmless shall remain in effect and shall be binding on Contractor whether such injury shall accrue, or may be discovered, before or after termination of this Agreement.

VI. INSURANCE

Contractor shall secure and maintain, at its expense, through the duration of this Agreement insurance as set forth on **Exhibit "C"**.

VII. ASSIGNMENT OF AND RESPONSIBILITY FOR PERSONNEL

- A. Contractor's assignment of personnel to perform the Services shall be subject to the City's oversight and general guidance. The City reserves the right to request qualifications and/or reject service from any and all employees of the Contractor.
- B. Unless otherwise stated in a Scope of Work Exhibit, Contractor shall be represented by a Superintendent or Foreman authorized to give and receive all instruction and notices from and to the City at all times while performing Construction Services, and shall have on site a person who is fluent in all languages necessary to communicate instructions regarding the Work and information regarding medical emergencies with Contractor's employees and subcontractors.
- C. All of the Construction Services required hereunder will be performed by the Contractor or under Contractor's supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under State and Local law to perform such services.
- D. None of the work or services covered by this Agreement shall be subcontracted without the prior written approval of the City. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this Agreement including, but not limited to, indemnification, insurance and warranties.
- E. Contractor and all subcontractors with a contract value of \$5,000 or more shall execute affidavits on the form attached as **Exhibit "D"**, attesting to their compliance with § 285.530.5 R.S. Mo. concerning compliance with Missouri's Worker Eligibility requirements.
- F. Contractor and all subcontractors must require all on-site employees to complete the ten-hour construction training program required under Section 292.675 RSMo. unless they have previously completed the program and have documentation of having done so. Contractor shall execute the affidavit attached as **Exhibit "E"**, attesting that it has provided OSHA safety training for its on-site employees. Contractor will forfeit a penalty to the City of \$2,500 plus an additional \$100 for each employee employed by Contractor or any subcontractor, for each calendar day, or portion thereof, such employee is employed without the required training. See Section 292.675 RSMo.
- G. While upon City premises, the Contractor's employees and agents shall be subject to the City's rules and regulations respecting its property and the conduct of employees thereon.

VIII. WARRANTY

- A. The Contractor warrants to the City that materials and equipment furnished under the Contract will be of good quality and new unless the Scope of Work documents require or permit otherwise. All manufacturer's warranties shall be assignable to the City. The Contractor further warrants that the work will conform to the requirements of the Scope of Work documents and will be free from defects, except for those inherent in the quality of the Work which the Scope of Work documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by

abuse, alterations to the work not executed by the Contractor or its subcontractors or suppliers, improper or insufficient maintenance or improper operation. If required by the Owner, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranties required by the Agreement (express and implied) shall remain in full force and effect even if a material or equipment item is required by the Owner to be manufactured by a specific entity, and no other equivalent product manufactured by any other entity is acceptable.

- B. The Contractor's warranty in Section VIII.A. shall not be construed to replace, change or otherwise limit any statutory or common law warranty rights of the Owner, or any other Contract requirements.

IX. OWNERSHIP OF WORK PRODUCT

Contractor agrees that any documents, materials and/or work products produced in whole or in part by or through it under this Agreement, any intellectual property rights of Contractor therein (collectively the "Works") are intended to be owned by the City. Accordingly, Contractor hereby assigns and agrees to assign to the City all of its right title and interest in and to such Works.

X. RELATIONSHIP OF THE PARTIES

Contractor represents that it is an independent contractor and that no personnel performing any of the Construction Services shall be employees of or have any contractual relationship with the City.

XI. PREVAILING WAGES

- A. Not less than the prevailing hourly rate of wages, as set out in the wage order attached to and made a part of the specifications for work under this Agreement as **Exhibit "F-1"** which will be provided at contract execution; shall be paid to workers performing work under the Agreement (See, Sections 290.250 and 290.325 R.S. Mo.)
- B. Contractor will forfeit a penalty to the City of \$100 per day (or portion of a day) for each worker who is paid less than the prevailing rate for any work done under the Agreement by Contractor or any Subcontractor (see Section 290.250 RSMo; for detailed information on rules and occupational titles, see 8 CSR 30-3.010 through 3.060.)
- C. Contractor shall maintain such required data on Form LS-57, **Exhibit "F-2"**, using the Instruction sheet issued by the Missouri Department of Labor and Industrial Relations, LS-57-3, **Exhibit "F-3"**, both of which are also available at, and shall further submit on a monthly basis, a Payroll Certification form attached to this Contract as **Exhibit "F-4"**, attesting to the completeness and accuracy of the data on the Certified Payrolls. Contractor shall also post notices and identify its vehicles as provided by the Prevailing Wage Requirements.
- D. Contractor further agrees to indemnify, defend and hold harmless the City from and against any claim, liability, assessment, fine, penalty or other cost, including attorney's fees, which may be asserted against or incurred by the City as a result of an allegation that Contractor has not complied with these Prevailing Wage Requirements, whether such claim is asserted by a worker or by the Division of Labor Standards or any other entity. This indemnification shall survive termination of this Contract.

XII. NOTICES

- A. All notices required by this Agreement shall be in writing, and unless otherwise directed by this Agreement, shall be sent to the addresses as set forth in this Section:
- B. Notices sent by Contractor shall be sent to:
 - City of Parkville
 - Attn: Lauren Palmer, City Administrator
 - 8880 Clark Ave.
 - Parkville, MO 64152
 - 816-741-7676
 - lpalmer@parkvillemo.gov
- C. Notices sent by the City shall be sent to:
 - Action Concrete Construction, Inc.
 - Attn: Joyce Ellebracht
 - 9323 Lancaster Road
 - Liberty, MO 64068
 - 816-781-8017
 - actionconcreteconst@gmail.com

XIII. CORRECTION OF WORK

The Contractor shall promptly correct work rejected by the City or failing to conform to the requirements of the Agreement, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for services and expenses of a designer made necessary thereby, shall be at the Contractor's expense. If the Contractor fails to correct nonconforming Work within ten (10) days after receipt of written notice from the City, the City may correct it at Contractor's expense.

XIV. TERM AND TERMINATION

- A. The effective date of this Agreement shall be the date of execution, when the Agreement is signed by both parties.
- B. Notwithstanding anything to the contrary in this Agreement or exhibit, the City reserves the right and may elect to terminate this Agreement at any time, with or without cause, by giving at least ten (10) days' written notice to the Contractor. The City shall compensate Contractor for the Construction Services that have been completed to the City's satisfaction as of the date of termination. Contractor shall perform no activities other than reasonable wrap-up activities after receipt of notice of termination.
- C. The City may terminate the Agreement for cause if the Contractor:
 - 1. refuses or fails to supply enough properly skilled workers or proper materials;
 - 2. fails to make payment to Subcontractors for materials, equipment, services or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
 - 3. disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority;

4. its Subcontractors or Sub-subcontractors causes a work stoppage due to any strike, picket, boycott or participates in any voluntary or involuntary cessation of Work; or
 5. otherwise is guilty of substantial breach of a provision of the Agreement.
- D. When any of the above reasons exist, the City may without prejudice to any other rights or remedies of the City and after giving the Contractor and the Contractor's surety, if any, seven (7) days' written notice, terminate the Agreement and may, subject to any prior rights of the surety, if any:
1. Exclude the Contractor from the Project site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
 2. Direct the work of subcontractors; and
 3. Finish the Work by whatever reasonable method the City may deem expedient. Upon written request of the Contractor, the City shall furnish to the Contractor a detailed accounting of the costs incurred by the City in finishing the Work.

When the Owner terminates the Agreement for one of the reasons stated above, the Contractor shall not be entitled to receive further payment until the Work is finished.

If the unpaid balance of the Contract Price exceeds costs of finishing the Work, including compensation for the services and expenses of a designer, and legal, consultant and testing fees made necessary thereby, and other damages incurred by the City and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor or its surety, if any, shall pay the difference to the City upon demand. The obligation for payment, if any, shall survive termination of the Agreement.

XV. RESOLUTION OF DISPUTES

- A. Should the Contractor believe that it is entitled to any relief due to errors, omissions or defects in the Plans or Specifications, or as a result of any act or omission of an independent contractor designer in connection with the Project, the City shall cooperate with the Contractor by permitting the Contractor to pursue legal action against the designer in the name of the City at Contractor's sole risk and expense as the City would otherwise have against such designer. The City shall pay to Contractor such sums as may be recovered from the designer on behalf of Contractor. Other than this duty of cooperation and remittance, the City shall have no liability or obligation to Contractor for any act, error, omission, negligence or breach of duty by a designer.
- B. City and Contractor agree that disputes relative to the Work shall first be addressed by negotiations between the parties. Such negotiations shall take place within thirty (30) days of demand by the party seeking resolution of the dispute. If direct negotiations fail to resolve the dispute, the party initiating the claim that is the basis for the dispute shall be free to take such steps as it deems necessary to protect its interests; provided, however, that notwithstanding any such dispute Contractor shall proceed with the Work as per the Contract Documents as if no dispute existed.
- C. In order to preserve its rights to dispute a matter hereunder, the complaining party must submit a written notice to the other party setting forth the basis for its complaint

within twenty (20) calendar days following receipt of the decision of the City Public Works Director as to such matter or other action on which the dispute is based. A decision of the City Public Works Director (where appropriate) under GC-7 above; notice of dispute, and direct negotiation, shall be conditions precedent to further action.

D. Arbitration of disputes.

1. Claims, except those waived as provided for elsewhere in this Agreement, which have not been resolved by the procedures described above, shall be decided by arbitration which, unless the parties mutually agree otherwise, in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association currently in effect at the time of the arbitration. The demand for arbitration shall be filed in writing with the other party to the Contract and with the American Arbitration Association.
2. A demand for arbitration may be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when institution of legal or equitable proceedings based on such Claim would be barred by the applicable statute of limitations.
3. An arbitration pursuant to this Section may be joined with an arbitration involving common issues of law or fact between the City or Contractor and any person or entity with whom the City or Contractor has a contractual obligation to arbitrate disputes which does not prohibit consolidation or joinder. No other arbitration arising out of or relating to the Contract shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to the Contract or not a party to an agreement with the City Contractor, except by written consent containing a specific reference to the Agreement signed by the City and Contractor and any other person or entities sought to be joined. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent or with a person or entity not named or described therein. The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by the parties to the Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.
4. Claims and Timely Assertion of Claims. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.
5. Judgment on Final Award. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

XVI. MISCELLANEOUS PROVISIONS

- A. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.
- B. Assignability. Contractor shall not assign any interest on this Agreement, and shall not transfer any interest in the same (whether by assignment or invitation), without the prior written consent of the City thereto. Provided, however, that the claims for money by Contractor from the City under this Agreement may be assigned to a bank, trust company, or other financial institution without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the City.

- C. Media Announcements. Contractor shall not be authorized to make statements to the media or otherwise on behalf of the City without express direction and consent of the City
- D. Compliance with Local Laws. Contractor shall comply with all applicable laws, ordinances, and codes of the State of Missouri and local governments, and shall save the City harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Agreement.
- E. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:
 - 1. Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, religion, or sex. Service Provider will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color, national origin, religion, or sex. Such action shall include, but not be limited to, 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.
 - 2. Contractor will, in all solicitation or advertisements for employees placed by or on behalf of Professional, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, religion, or sex.
 - 3. Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- F. Interest of Members of a City. No member of the governing body of the City and no other officer, employee, or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement, and Contractor shall take appropriate steps to assure compliance.
- G. Interest of Contractor and Employees. Contractor covenants that he/she presently has no interest and shall not acquire interest, direct or indirect, in the study area or any parcels therein or any other interest which would conflict in any manner or degree with the performance of his/her services hereunder. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed.
- H. Entire Agreement. This Agreement represents the entire Agreement and understanding between the parties, and this Agreement supersedes any prior negotiations, proposals, or agreements. Unless otherwise provided in this Agreement, any amendment to this Agreement shall be in writing and shall be signed by the City and Contractor, and attached hereto.
- I. Severability. If any part, term or provision of this Agreement, or any attachments or amendments hereto, is declared invalid, void, or enforceable, all remaining parts, terms, and provisions shall remain in full force and effect.
- J. Waiver. The failure of either party to require performance of this Agreement shall not affect such party's right to enforce the same. A waiver by either party of any provision of breach of this Agreement shall be in writing. A written waiver shall not affect the waiving party's rights with respect to any other provision or breach.

- K. Third Parties. The Services to be performed by the Contractor are intended solely for the benefit for the City. Nothing contained herein shall create a contractual relationship with, or any rights in favor of, any person or entity not a signatory to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston, Mayor

ATTEST:

Melissa McChesney, City Clerk

ACTION CONCRETE CONSTRUCTION, INC.

By: _____
Joyce Ellebracht

Exhibit A

SCOPE OF WORK AND PRICING AGREEMENT

1. Provide rehabilitative construction work as shown on Sheet A1.01 dated 06/14/2016 as prepared by John Freshnock with Williams, Spurgeon, Kuhl & Freshnock Architecture and entitled "Rehabilitative Construction Work on the English Landing Park Public Restroom" at English Landing Park, Parkville, Missouri.
2. All work shall comply in every respect with the building laws, City regulations, and code requirements.
3. Contractor shall have/obtain a City of Parkville Business License.
4. If there are any questions regarding the work that is to be done, it will be the responsibility of the Contractor to contact the designated City representative and request clarifications before proceeding.
5. Upon completion of the work, and approval of such work by the City, Contractor shall submit an invoice in accordance with provisions set forth in this Agreement.
6. Contractor shall supply Superintendent or Foreman contract information including cell phone number and email information.
7. It is mutually understood and agreed by and between the parties to this Contract that in the event that the Contractor shall fail in the performance of the Work specified and required to be performed within the period of time stipulated therefor in the Contract, Contractor shall be assessed \$100.00 per calendar day passed the substantial completion date identified in this Agreement.
8. The scope of work included in this contract shall be completed within (45) forty-five days of contract execution.

The contract price for the Site Construction Work at the English Landing Park Restroom is Seven Thousand Four Hundred Eighty Dollars and 00/00 (\$7,480.00).

Exhibit A-1

DETAILED BID TABULATION

<u>Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
Install new ADA sidewalk to McAfee Drive	1 LS	\$3,525.25	\$3,525.25
Install splash guards for gutters	1 LS	\$20.00	\$20.00
Truncated Dome for Sidewalk	1 LS	\$288.75	\$288.75
New ADA Sidewalk in area Shown (1:20 slope)	1 LS	\$3,646.00	\$3,646.00
GRAND TOTAL			\$7,480.00

*Note: The contractor is responsible for any repairs necessary from any removals or replacements associated with their trade.

CITY OF PARKVILLE Policy Report

Date: August 23, 2016

Prepared By:
Alysen Abel
Public Works Director

Reviewed By:
Lauren Palmer
City Administrator

ISSUE:

Approve a work authorization with North Hills Engineering (Jay Norco) for evaluation and mapping of the City's sanitary sewer system.

BACKGROUND:

On August 5, 2014, the Board of Aldermen approved a five-year agreement with North Hills Engineering (NHE) for on-call engineering services. The agreement allows the City to execute individual work authorizations for supplemental engineering services for specific projects and studies.

Sewer maps were created in 2006 that show the locations of the City's sewer structures and pipes. The hardcopy maps produced in 2006 are used by both Public Works and Community Development staff to determine the locations of the existing sewer mains. The purpose of this work authorization is to update the geographical information system (GIS) model and mapping layers, create asset features, and produce usable maps of the sanitary sewer system. This work authorization includes field work, survey, layer importation, feature creation, labeling and map creation using ArcGIS.

Earlier in 2016, the City obtained current GIS information from Platte County. This information included background imagery, parcel data, and feature classes. The information obtained from Platte County will be used to create updated City sewer mapping.

Parkville does not currently maintain its own GIS and is evaluating options and costs to enhance its ability to manage mapping layer information and create sophisticated property maps. The city may acquire ArcGIS software to create and maintain an in-house GIS, or it may pursue a partnership with Platte County and/or the Mid-America Regional Council to house the city's data layers. If in the future the City improves its GIS capabilities, the data compiled with the sewer GIS mapping from this work authorization may be uploaded into that system. Once the mapping layers are created, staff can utilize the information for asset inventory and maintenance tracking purposes. If the City does not create an in-house GIS or partner with an outside agency in the near term, this project is still necessary in order to update the hard copy maps that are crucial for accurate sewer maintenance and line locates.

BUDGET IMPACT:

The 2016 Capital Improvement Program includes \$6,500 in the Sewer Fund for sewer evaluation and mapping. The proposed work authorization is within budget at \$6,450.

ALTERNATIVES:

1. Approve a work authorization with North Hills Engineering for the design and project management for the GIS mapping of the City's sanitary sewer system in the amount of \$6,450.
2. Provide alternative direction to staff.
3. Postpone the item.

ITEM 4F

For 08-29-16

Board of Aldermen - Finance Committee Meeting

STAFF RECOMMENDATION:

Staff recommends the approval of a work authorization with North Hills Engineering for the sewer evaluation and mapping in the amount of \$6,450.

POLICY:

Per the Purchasing Policy, Resolution No. 10-02-14, the Finance Committee may authorize purchases up to \$10,000.

SUGGESTED MOTION:

I move to approve Work Authorization No. 62 with North Hills Engineering for sewer evaluation and mapping in the amount of \$6,450.

ATTACHMENT:

1. Work Authorization

WORK PLANNING / AUTHORIZATION FORM

Number: WA-62

Project / Work Description:

Design and Project Management for GIS Mapping of the Sanitary Sewer System

Purpose: To update the GIS model and mapping layers, create asset features, produce usable maps of the sanitary sewer system.

This WA covers the field work, survey, layer importation, feature creation, labeling and map creation using ArcGIS.

The existing maps were created in 2006 using an outdated version of GIS, and the map features are out of date.

The maps need recent background imagery, parcel data, and feature classes to be usable.

This project will produce PDF and hardcopy maps that can be used by staff for line locates and maintenance.

Total Project Budget: \$6,500 in 2016 CIP - Line Maintenance.

Service Provider: North Hills Engineering, Inc.

Terms: Subject to the provisions of the August 5, 2014 Engineering Services Agreement between the City and North Hills Engineering Incorporated

Primary Tasks:

Project Management and Coordination Meetings with AWR City Staff.	4
Obtain & import 2016 imagery files, manage as tiles for reduced memory impact.	4
Obtain & import updated parcel lines and relevant feature classes from County GIS source.	3
Perform field survey to obtain hard measurements on needed manholes for, location on GIS map.	16
Perform field survey on line lengths, on segments missing data or with inaccurate data.	21
Review CCTV and manhole data since 2007 to revise line locations, sizes, materials, etc.	12
Revise manhole features and symbols to reflect manholes found, added, eliminated, buried.	5
Revise sewer features to reflect revised and more accurate locations, and new construction.	4
Revise sewer database attributes to reflect replacement and repair projects performed since 2006.	4
Create tiled numbering system for new sewer maps, based on 11x17 hardcopy size.	3
Create key sheet and titles for PDF maps.	3
Meet with City staff and AWR to review map content and arrangement, make revisions.	4
Plot 4 sets of hardcopy maps for use by AWR and City staff.	3

Estimated Consultant Fee:

GIS Mapping: 86 Hours x \$ 75.00 / hour = \$ 6,450.00

Budget: Sewer Budget / CIP

Schedule:

Estimated Completion Date: 12/15/2016

Project Deadlines: n/a

Submitted By:

Jay Norco, P.E. - President.

Date

Authorization:

Mayor Johnston

Date

CITY OF PARKVILLE Policy Report

Date: August 23, 2016

Prepared By:
Alysen Abel
Public Works Director

Reviewed By:
Lauren Palmer
City Administrator

ISSUE:

Approve a work authorization with Blue Valley Laboratories for the repair of the aerator in the Parkville Athletic Complex (PAC) retention pond.

BACKGROUND:

The PAC retention pond was constructed to detain the stormwater runoff generated by the Parkville Commons, Parkville Athletic Complex (PAC), and surrounding developments. Previous agreements were made between Parkville Athletic Complex who donated the land that is occupied by the pond; Parkville Commons who originally constructed the pond; Platte County who chose Parkville as the site for the YMCA; and the City of Parkville who is responsible for the on-going maintenance of the pond.

With the construction of the YMCA and its expansion, as well as construction in the surrounding development, sediment built up in the pond over time. The City previously identified the need to dredge the existing pond and bring it back to its original condition. The City applied for various grants to accomplish this maintenance work. The City received one grant to modify the outlet pipe to convert the pond from a wet basin to a dry basin.

With the new QuikTrip development, there was an opportunity for the City to partner with the developer to provide the necessary detention volume to accommodate the development while performing the necessary maintenance to the pond. The developer agreed to grade the pond area to allow additional volume needed to accommodate the QuikTrip development and make the necessary modifications to the outlet structure to convert the pond back to a retention pond. The developer agreed to include the additional work in their contract and the City would reimburse the developer for their portion at the end of 2017. This arrangement allows the City to program money into the 2017 Capital Improvement Program. The City would be responsible for \$50,000 of the construction costs associated with the pond. The agreement affirms that the long-term maintenance of the pond will remain the responsibility of the City.

In February 2016, the City applied for a Stormwater Management Grant through Platte County for the modifications to the PAC pond. The City requested \$25,000 (or 50% of the City's portion of the project). Unfortunately, the City did not receive the grant funding because the project was maintenance related and served a commercial development. Platte County gave the City \$10,000 to assist with the maintenance efforts.

At the time the agreement was contemplated and the design of the retention pond was discussed, there was some discussion about the installation of the aerator in the pond. Since the pond now retains water, the aerator is necessary to combat the development of algae on the surface and to assist with the aesthetics of the pond and long-term maintenance. The existing equipment was removed from service when the pond was converted from a wet basin to a dry basin. It was assumed that the installation of the aerator was within staff's ability. Since that time, staff realized that the installation of the aerator was more involved. Further, there needed to be additional components purchased for the aerator to fully function.

ITEM 4G

For 08-29-16

Board of Aldermen - Finance Committee Meeting

Staff reached out to three contractors to obtain quotes for the electrical work that was outside of their expertise. The installation would require the contractor to have access to a boat to reach the aerator in the middle of the pond. Two of the three contractors did not have access to a boat and were not able to provide quotes for the work. The third contractor, Blue Valley Laboratories originally provided a quote of \$2,350 to perform the necessary electrical connections and install the aerator in the pond. The work authorization included a new pump, cable assembly, power cable, diffuser and freight.

While processing the paperwork for the work authorization, staff realized that the contractor did not include labor in the original quote. The contractor also found out that the new pump that was purchased would not fit the existing screen. A new screen would be necessary to accommodate the new style pump that is available for the existing aerator. The revised quote from Blue Valley Laboratories is \$2,635.

BUDGET IMPACT:

In the agreement with QuikTrip, the developer will cover the cost of construction initially, allowing the City to program money into the 2017 budget for the improvements. According to the agreement, the City will reimburse the developer up to \$50,000 by December 31, 2017. In July, the City received a check from the County in the amount of \$10,000 to cover their portion of the maintenance improvements.

This item was not anticipated in the 2016 budget. Staff assumed the installation of the aerator could be performed by City staff and there would be little cost beyond the pond grading. The expense will be paid from the Public Works – Capital Outlay division of the General Fund, and staff recommends offsetting the expense with a portion of the money received by Platte County for the pond maintenance project. Adjustments can be made to the 2017 budget to reflect this change.

ALTERNATIVES:

1. Approve a work authorization with Blue Valley Laboratories for the installation of the aerator in the PAC pond in the amount of \$2,635.
2. Provide alternative direction to staff.
3. Postpone the item.

STAFF RECOMMENDATION:

Staff recommends the approval of a work authorization with Blue Valley Laboratories for the necessary electrical connections, purchase of a new pump and installation of the aerator for the PAC pond.

POLICY:

Per the Purchasing Policy, Resolution No. 10-02-14, the Finance Committee may authorize purchases up to \$10,000.

SUGGESTED MOTION:

I move to approve a work authorization with Blue Valley Laboratories for the installation of the aerator in the PAC pond in the amount of \$2,635.

ATTACHMENT:

1. Work Authorization



Work Authorization #1

Date: August 29, 2016
Issued to: Blue Valley Laboratories, Inc.
814 East 16th Street
Kansas City, MO 66108
Project/Work Description: Power Cable with Stainless Braiding
Title: PAC Retention Pond

Scope of Work/Purpose: Repair Proposal to Include:

1	1/2Hp Power Unit, 208-240 Volt, Single Phase; Unit comes ready to operate, with a 3 year warranty. Pigtail has stainless braiding -	\$1,180.00
1	14/3 50' Cable Assembly, 4 Pin ALC End w/ Stainless Braid -	\$ 285.00
120	14/3 Power cable w/ Stainless Braiding @ \$4.00 -	\$ 480.00
1	Diffuser and Prop Assembly; the old diffuser is plastic, and may be really oxidized from storage. -	\$ 15.00
1	½ Hp Stainless Steel Custom Intake Screen	\$ 265.00
	Installation and/or Repair	\$ 350.00
	Freight -	\$ 60.00
	Total -	\$2,635.00

Project Start Date: August 30, 2016
Estimated Completion Date: September 30, 2016
Latest Acceptable Date: September 30, 2016
Estimated Cost: \$2,635.00
Expenditure Limit: \$2,635.00
Budget Account Code: 40.501.07-32-00

Acceptance of this work authorization constitutes agreement to perform the work described above in accordance with the City of Parkville Terms and Conditions for maintenance projects.

Name/Title: Brent D. Kramer/ Lake Services Mngr. Signature: *Brent D. Kramer*
Company: Blue Valley Laboratories Date: 8/23/16

Authorization

Department Head: _____ Date: _____
Alysen Abel, Public Works Director

City Administrator (if over \$1,000): _____ Date: _____
Lauren Palmer, City Administrator

Mayor (if over \$2,500): _____ Date: _____
Nanette K. Johnston

For Internal Staff Use Only

(initial each item and file with executed work authorization)

- _____ Employment Eligibility Status Verification (if the cost exceeds \$5,000)
- X Certificate of Insurance that demonstrates compliance with the Terms and Conditions
- X Valid business license

**City of Parkville
Major Projects Updates**

Updated as of August 22, 2016

2014 PROJECTS - STILL PENDING

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Parks	Multi-year Project	Year 3 of 3	Parks Building Façade Improvements	Project is substantially complete. The contractor failed to complete the punch list and was terminated from the job. Staff is working to complete the mandatory remaining elements of the project which are focused on code compliance. Structural improvements are complete. Electrical upgrades were designed by Design Energy Group. The contract was awarded to Merrill Electric. After the contract was awarded, KCP&L informed staff that a new service box was necessary. Staff is coordinating with Merrill Electric on the change order.	69% Parks Donations; 31% Sewer (Projects Fund)	\$ 91,081	\$ 3,675

2016 PROJECTS

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Admin	Equipment	Replacement	Radiator Replacement for City Hall Generator	In April it was found that the radiator in the City Hall backup generator was damaged. In late April, the Finance Committee approved a work authorization with Absolute Comfort Technologies, Inc. for the radiator repair. COMPLETE.	100% General Fund	\$ 6,899	\$ -
Admin	Project	New	Maintenance Reserve Study	A professional services agreement with Reserve Advisors for a comprehensive reserve study of Parkville City Hall, Street Barn, Train Depot, and Park HQ was approved by the Finance Committee. Study has been received and is being reviewed by staff. Staff will use study recommendations in the budget process. COMPLETE.	100% General Fund	\$ 7,500	\$ -
Admin/IT	Equipment	Replacement	Microsoft Exchange Server	Approved by the Finance Committee February 22. COMPLETE.	100% General Fund	\$ 4,925	\$ -
Com Dev	Multi-year Project	Year 3 of 3	Upgrade Zoning and Subdivision Regulations	The consultant team led by Gould Evans presented eight "Issue Papers" to P&Z and plans to present the remaining four at the upcoming P&Z meeting on September 13. The first public open house was held on May 23 and a second open house will be scheduled for later this Fall. The consultant completed a "working draft" of notes and suggested modifications for the entire Zoning Code, and the goal is to have a final draft adopted by the Board of Aldermen in October or November.	100% General Fund	\$ 85,000	\$ 81,400

**City of Parkville
Major Projects Updates**

Updated as of August 22, 2016

2016 PROJECTS

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Com Dev	Equipment	Replacement	Line Locator Kit	Staff has reached out to several vendors and tested line locator equipment out in the field from one of the vendors on June 22. Staff will gather more quotes from vendors and present a recommendation for purchase to the Finance Committee sometime this fall.	100% General Fund	\$ 5,000	\$ 5,000
Com Dev	Equipment	Replacement	Inspections Vehicle	On August 16, the BOA approved the purchase of a 2017 Ford Focus SE to replace the 2004 Ford Taurus. Delivery and equipment installation will take place next month.	100% General Fund	\$ 22,000	\$ 22,000
Public Works	Multi-year Project	Year 4 of 4	Downtown Entryway Improvement Design	The contractor started work in the winter, prior to the March 14 Notice to Proceed. The inactive KCP&L pole was removed. The entryway sign base and columns were constructed. The brackets and Park University banners were installed. Staff is currently working on the final close-out paperwork.	17% General Fund, 7% Fewson Fund, 27% Donation, 56% Grant	\$ 244,616	\$ 11,265
Public Works	Project	New	Demolish Home on City Property (6201 Hwy 9)	The contract was approved by the Finance Committee on April 11. The house was demolished in May. The area has been cleared and stabilized by the contractor. COMPLETE.	100% General Fund	\$ 9,800	\$ -
Parks	Project	Maintenance	Roof Replacement for Historic Train Depot	The contract was approved at the Board meeting on February 16. The work was completed at the beginning of April. The entire roof and decking at the train depot was replaced. COMPLETE.	24% Insurance Proceeds; 76% General Fund	\$ 29,777	\$ -
Parks	Project	Year 2 of 2	Maintenance and Equipment Storage Facility	The bid documents for the Parks Storage Building were completed with the reconstruction of the English Landing Park restroom. Now that the restroom is being rehabilitated, the location of the Parks storage building is currently under review by staff.	100% General Fund	\$ 75,000	\$ 75,000
Parks	Multi-year Project	Year 2 of 6	Replace or Improve/Expand Permanent Restroom Facility in English Landing Park	Bids were received for the ELP restroom project in early February. The bids were about \$100,000 over budget. Staff is currently obtaining bids from contractors to rehabilitate the existing restroom. Construction will start in September.	7.0% Park Donations; 19% Platte County Outreach Grant; 74% Fewson Fund loan	\$ 210,000	\$ 168,815

**City of Parkville
Major Projects Updates**

Updated as of August 22, 2016

2016 PROJECTS

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Parks	Project	New	English Landing Parks Low Water Crossing Improvements	This project would raise the low water crossing in English Landing Park to reduce the amount of time the park is closed due to backwater flooding from the Missouri River. Staff submitted a grant to FEMA in July. It is intended that FEMA will make a decision in August/September about the grant. Assuming the project moves forward, it is anticipated that the design will start at the end of 2016.	75% FEMA Grant, 25% General Fund	\$ 200,000	\$ 50,000
Parks	Project	New	5K/10K Markers and Parks Signage	Awarded \$4,105 toward 5K/10K signage from a Platte County Outreach Grant. CLARB approved the 5K/10K Markers and Parks Signage project in July. Board of Aldermen approved the project in early August. Working on finalizing design for implementation.	59% General Fund, 41% Platte County Grant	\$ 10,000	\$ 10,000
Parks	Equipment	Replacement	Zero Turn Mower	The purchase of the mower was approved by the Board on March 15. The mower was delivered in April. COMPLETE.	100% General Fund	\$ 16,135	\$ -
Parks	Project	Year 2 of 2	Parks Master Plan Update	Four key community leaders and four focus group discussions happened throughout February and March. A community open house was held on April 14 to gather community-wide input. Draft master plan concepts on were display at the Fourth of July festival, as well as through an online survey. Steering committee will review and discuss draft concept revisions in August/September. Master plan adoption anticipated mid-fall.	81% City; 19% Platte County Grant (Projects Fund)	\$ 52,000	\$ 18,000
Parks	Project	Replacement	Trail Improvements Near Grigsby Field	This project includes the removal of 850 feet of a narrow asphalt trail along the riverfront in English Landing Park (south of Grigsby Field) and replacement with lime screenings for a uniform surface with the remaining trails. The trail will be approximately 10 feet wide. The project will be completed by Public Works staff during the third quarter, between events in the park.	29% City budget; 28% Platte County Grant; 43% City Labor	\$ 12,869	\$ 3,725
Parks	Project	New	Trail Around Large Dog Park	This project includes the installation of a gravel trail along the perimeter of the large dog park fence. The trail was installed in June. COMPLETE.	40% Platte County Grant; 60% City Labor	\$ 8,000	\$ -

**City of Parkville
Major Projects Updates**

Updated as of August 22, 2016

2016 PROJECTS

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Police	Equipment	Replacement	In-Car Video Systems	The project involves replacing the existing in-car video system with an updated system. Two systems will be replaced in 2016 and one in 2017 to get on a five-year maintenance cycle to match warranty pending wear and tear. The two new systems for 2016 have been purchased and installed. COMPLETE.	100% General Fund	\$ 7,420	\$ -
Police	Equipment	Replacement	Patrol Vehicle	The purchase is for a 2016 AWD Police Ford Taurus Sedan including emergency equipment, video, radio, etc. Approval was granted at the April 19 Board Meeting for purchase from Dick Smith Ford in Raytown, MO. The vehicle was delivered on August 17, 2016. It will be made road ready within a few weeks.	100% General Fund (includes trade-in value)	\$ 35,115	\$ 7,990
Sewer	Equipment	Replacement	Sludge Application Equipment	Due to the overage in the WWTP Storage building, staff will delay this budget item until 2017. DEFERRED.	100% Sewer Fund	\$ 7,000	\$ 7,000
Sewer	Project	Maintenance	Water Line Repair	On March 1, 2016, the Board approved an agreement with Deister Company for the waterline repairs for the service to the WWTP. During construction, additional repairs were necessary. An additional emergency change order was authorized by the City Administrator. The work was completed in late March. COMPLETE.	100% Sewer Fund	\$ 23,797	\$ -
Sewer	Project	Year 2 of 2	WWTP Site Improvements	The construction contract for the WWTP Storage building was approved by the Board on April 19. Construction began on the building in June. The building is substantially complete. The contractor is working on the punchlist items. It is anticipated that the building will be complete at the end of August.	100% Sewer Fund	\$ 97,400	\$ 9,472
Sewer	Project	Maintenance	Clarifier Floor	A work authorization was approved at the March 7 Finance meeting for the clarifier floor design. The construction contract was approved by the Board on August 16. The construction will take place during the third quarter.	100% Sewer Fund	\$ 45,000	\$ 42,000
Sewer	Project	Maintenance	WWTP Mission Control	Staff is currently working on the specifications for the equipment and software needs. It is anticipated that the purchase of this system will be completed during the third quarter.	100% Sewer Fund	\$ 12,000	\$ 12,000
Sewer	Multi-year Project	Year 2 of 2	Pinecrest Pump Station Reconstruction	Carryover project from 2015. COMPLETE.	100% Sewer Fund	\$ 86,515	\$ -

**City of Parkville
Major Projects Updates**

Updated as of August 22, 2016

2016 PROJECTS

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Sewer	Project	Maintenance	Miscellaneous Pump Station Improvements	Due to the unexpected expense of the South National Pump Station pump, the other pump station improvements are delayed until 2017. DEFERRED.	100% Sewer Fund	\$ 11,800	\$ 11,800
Sewer	Multi-year Project	Year 2 of 2	Sanitary Sewer Phase 2 Line Repairs	The work associated with this contract is substantially complete. The final as-built change order was approved by the Finance Committee on April 25. COMPLETE.	100% Sewer Fund	\$ 292,957	\$ -
Sewer	Multi-year Project	Year 1 of 2	Sanitary Sewer Phase 3 Manhole Repairs	The Board approved a change order to the Phase 2 contract for the Phase 3 repairs. The pipe repair is substantially complete. The manhole repair bids in September. The manhole repair work will begin in October.	100% Sewer Fund	\$ 230,000	\$ 124,126
Sewer	Project	New	Sewer Evaluation and Mapping	Review and evaluate existing information about sewers and create updated mapping to assist with line locates and emergency calls. Maps have not been created since 2007. The work associated with this item will start in mid-September and have a completion of mid-November.	100% Sewer Fund	\$ 6,500	\$ 6,500
Sewer	Project	Maintenance	CCTV and Cleaning	The engineering design is completed. The contract for the 2016 CCTV was approved by the Board on May 17. The CCTV work started and should be completed during the third quarter.	100% Sewer Fund	\$ 55,000	\$ 55,000
Sewer	Multi-year Project	Year 1 of 2	45 Hwy Pump Station	Installation of new pumps and controls. Begin design in 2016 with installation in 2017. The design will begin in early October.	100% Sewer Fund	\$ 6,200	\$ 6,200
Sewer	Multi-Year Project	Year 1 of 2	WWTP Headworks Screen Rebuild	Rebuild the influent mechanical bar screen at the WWTP. Screen is used to filter out plastics, rags and debris. Includes replacing the screen links, media shafts, and drive chain links. Begin design/bidding in 2016, construct in 2017. The design will begin in early November.	100% Sewer Fund	\$ 3,000	\$ 3,000
Streets	Equipment	New	Ditch bank mower	New tractor with cab and extendable arm mower for cutting back trees and heavy brush along right of ways. The equipment was purchased and staff is awaiting delivery.	100% Transportation Fund	\$ 65,000	\$ 65,000
Streets	Equipment	New	Mower Attachment	80 inch mower attachment for existing 3930 tractors that is used for mowing rights-of-way. Existing equipment is 20+ years old and repair parts are not available. The equipment was purchased and staff is awaiting delivery.	100% Transportation Fund	\$ 8,000	\$ 8,000

**City of Parkville
Major Projects Updates**

Updated as of August 22, 2016

2016 PROJECTS

Division	Type	New or Replacement	Name	Project Update	Funding Source	Total Cost	Remaining City Funds to Be Spent
Streets	Maintenance	New	2" Asphalt Mill and Overlay	The construction contracts were approved for the Mill and Overlay and Microsurfacing programs on April 19. The microsurfacing work was completed in July. The majority of the mill and overlay occurred in May and June. Additional money from the General Fund was approved to complete additional streets in Riss Lake. The additional streets in Riss Lake will be complete in late August.	100% Transportation Fund	\$ 255,165	\$ 105,940
Streets	Maintenance	New	Curb & Sidewalk Repair	The construction contract was approved on April 19. A change order was approved for sidewalk repair on Twilight on June 7. COMPLETE.	100% Transportation Fund	\$ 106,928	\$ -
Streets	Maintenance	New	Crack Sealing	City crews use a rented machine from Weatherby lake for \$750 per week and plan on 4 weeks of use in addition to purchasing approx. 15 tons of sealing material to seal cracks up to 1" in width. Covers approx. 15 lane miles. It is anticipated that the majority of the work will be completed in the fall.	100% Transportation Fund	\$ 15,000	\$ 15,000
Streets	Maintenance	New	Street Striping	Needed to re-paint faded areas on the pavement such as centerlines and stop bars for traffic safety. The pavement marking will bid in August. The work will be completed in September.	100% Transportation Fund	\$ 20,000	\$ 20,000
Streets	Equipment	Replacement	Street Department Truck/Plow/Spreader	The purchase was approved by the BOA on February 16. The truck was delivered in early May. A separate request for truck equipment was approved by the Board on May 3. It is anticipated that the truck equipment will be ready during the third quarter.	100% Transportation Fund	\$ 54,814	\$ 26,648



CITY OF PARKVILLE Memorandum

Date: Thursday, August 25, 2016

To: Finance Committee

From: Lauren Palmer, City Administrator

CC: Board of Aldermen
Senior Management Staff

RE: NID Financing Strategy and 2017 Budget Preview

Enclosed are several documents that staff and I recently produced to prepare for a meeting with Alderman Rittman. Alderman Rittman requested time with me to gain a better understanding of the city's financial position, specifically as it relates to exposure from the Brush Creek and Brink Meyer Neighborhood Improvement District (NID) bonds. I am sharing those documents for the benefit of the Finance Committee and Board of Aldermen. I intend to review these documents in detail as part of the 2017 budget process. In the meantime, I am happy to meet by phone or in person with any other aldermen who have questions or suggestions in advance of the upcoming budget work sessions.

Below is a summary of the attachments with some conclusions to consider in preparation for the 2017 budget:

1. **Brush Creek Drainage and Brink Meyer NIDs Payment Strategy (Chart)**. This is the payment strategy that staff and the Board devised last year as a precaution against any future delinquent NID assessments. The strategy is based on covering shortfalls by capturing savings from the 2015 Certificates of Participation (COP) refinancing and renewing the temporary property tax levy (no tax increase ballot question) that expires in 2025. Any remaining gaps would be covered by the Emergency Reserve Fund.

The long-term projection for the Emergency Reserve Fund has improved considerably since last year. A favorable error was found because the General Fund set aside for COP payments (\$217,000) was not carried through the remainder of the spreadsheet after the COP retires in 2027. In addition, the temporary levy performed better than budget this year which carried through the projections for the remaining years of the spreadsheet. Based on the most current analysis, the Emergency Reserve Fund will not fall below \$380,000. It is important to note that the analysis is based on various assumptions that are listed on the chart.

2. **Brush Creek and Brink Meyer NIDs Payment Strategy (Graph)**. This is a graphical representation of Attachment 1. The graph is color-coded to match the corresponding funding source columns in the Attachment 1 chart. The City made interest-only payments for both NIDs in 2015 and 2016 which accounts for the noticeable change in impact beginning in 2017 when principal payments begin.
-

3. **NID Debt Schedule and Payments.** This is a graphical thermometer representation of the two NID bond schedules and the progress made toward retirement based on two years of payments and the debt service reserve payment that is held for the final year in 2034.
4. **Emergency Reserve Fund Balance.** This is a graphical representation of the Emergency Reserve Fund Balance assuming the NID payment strategy outlined in Attachment 1 is followed. The chart demonstrates that the City's position will improve considerably after 2025 if the temporary operating levy is renewed and 2027 when the COP is retired. If assessments hold steady and other assumptions are met, the Board will have options to consider in 2025, such as:
 - Should we ask voters for a partial renewal of the temporary operating levy, or ask for a full renewal but commit a portion of the proceeds to other community priorities?
 - Should we taper off contributions to the Emergency Reserve Fund in order to support other community needs?
 - Should we consider another debt issue in an amount comparable to the principal retired by the COP in order to fund community needs?By that time, staff and the Board will know much more about economic development in the NID corridor to help inform these decisions.
5. **Emergency Reserve Fund Forecast.** This is the five-year forecast sheet for the Emergency Reserve Fund that gives more detail about the projected expenses and revenues for the fund in the near-term. It matches the graphical depiction in Attachment 4.
6. **General Fund Forecast.** This is the five-year forecast sheet for the General Fund that gives more detail about the projected expenses and revenues for the fund in the near-term. I included this forecast to remind the Board that the City is facing a General Fund deficit as early as 2020. This projection is based on many assumptions that will likely change in the 2017 budget process. It does not include updated department budget requests for 2017. It assumes the status quo in terms of municipal services and staffing, but includes modest inflationary increases for revenues and expenses (personnel, goods, materials, and services). It is based on the 2016 – 2021 Capital Improvement Program (CIP) that is likely to be massaged. Most notably, it demonstrates the impact on the General Fund from making significant annual transfers to prop up the Emergency Reserve Fund and the NID financing strategy. This snapshot of the General Fund does not capture the Board's expressed desire to push more resources to the Transportation Fund to support street maintenance. In short, there is much work to be done in the budget process. Over the next several weeks, staff will be working to prepare a recommended budget that eliminates the projected deficit while keeping momentum on the Board's five critical success factors and long- and short-term priorities.
7. **Route 9 Corridor Implementation.** This is a chart that Aldermen Rittman requested to better display the financial impact of completing various segments of the Route 9 Corridor Study. The spreadsheet is designed to be adjusted based on assumptions for 9 Highway Community Improvement District (CID) revenues. This version indicates that the local match for segments one through three (Route 45 to Lakeview Dr.) can be fully funded by dedicating 85% of CID revenues for the first seven years. The estimate is based on the largest possible CID boundary and may need to be adjusted following receipt of the final petition.

Please let me know if you have questions or need additional information.

Brush Creek Drainage and Brink Meyer Road NIDs Payment Strategy

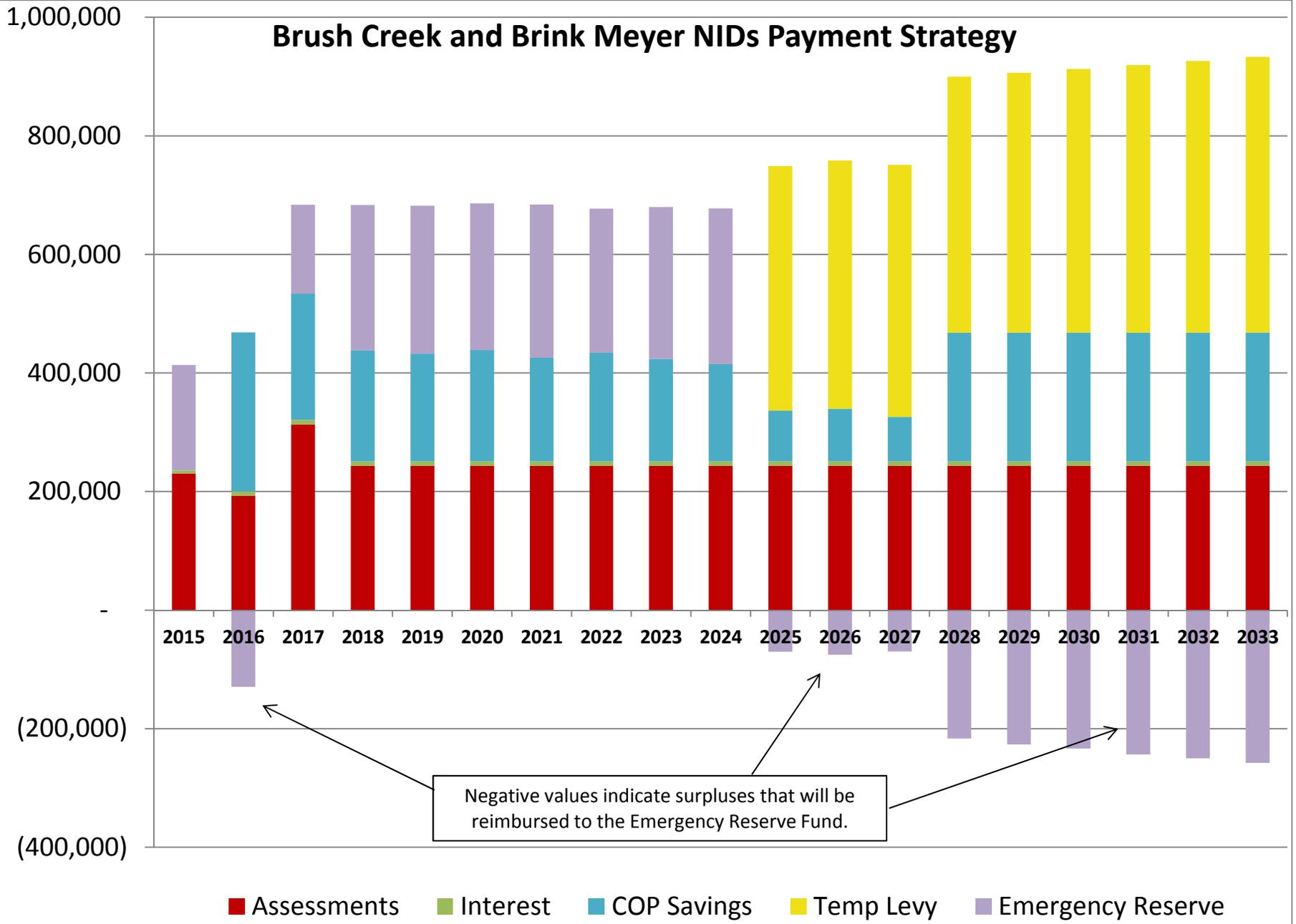
Updated August 25, 2016

Fiscal Year	Amount Due Brush Creek NID	Amount Due Brink Meyer NID	Total Amount Due includes bond fees (excludes maintenance)	Funding Sources					Emergency Reserve Remaining Balance with \$100,000 added per year
				Assessments Applied to Payment (per 2015-16 receipts)	Interest on Debt Service Reserve	COP Savings	Renewed Temp Levy	Emergency Reserve Fund (negative is surplus)	
2015	230,663	182,874	413,536	230,663	4,750			178,124	1,269,842
2016	189,088	149,988	339,075	192,627	7,650	268,105		(129,307)	1,499,149
2017	395,938	287,888	683,825	313,124	7,650	213,134		149,917	1,449,232
2018	394,563	288,613	683,175	243,070	7,650	187,670		244,785	1,304,447
2019	393,038	289,188	682,225	243,070	7,650	181,990		249,515	1,154,932
2020	396,288	289,613	685,900	243,070	7,650	188,001		247,179	1,007,753
2021	394,313	289,888	684,200	243,070	7,650	175,144		258,335	849,418
2022	392,188	285,088	677,275	243,070	7,650	183,462		243,092	706,325
2023	394,838	285,213	680,050	243,070	7,650	173,146		256,184	550,141
2024	392,263	285,188	677,450	243,070	7,650	164,447		262,283	387,859
2025	394,131	284,794	678,925	243,070	7,650	85,851	412,652	(70,298)	558,157
2026	395,013	288,250	683,263	243,070	7,650	88,769	418,842	(75,069)	733,226
2027	395,213	285,750	680,963	243,070	7,650	74,966	425,125	(69,848)	903,074
2028	395,063	287,950	683,013	243,070	7,650	217,500	431,502	(216,709)	1,219,783
2029	394,563	284,850	679,413	243,070	7,650	217,500	437,974	(226,782)	1,546,565
2030	393,713	285,375	679,088	243,070	7,650	217,500	444,544	(233,676)	1,880,242
2031	391,700	284,375	676,075	243,070	7,650	217,500	451,212	(243,357)	2,223,599
2032	393,400	282,875	676,275	243,070	7,650	217,500	457,980	(249,925)	2,573,524
2033	389,600	285,750	675,350	243,070	7,650	217,500	464,850	(257,720)	2,931,244
2034	782,300	565,750	1,348,050	243,070	692,338	217,500	471,822	(276,681)	3,307,925

Assumptions:

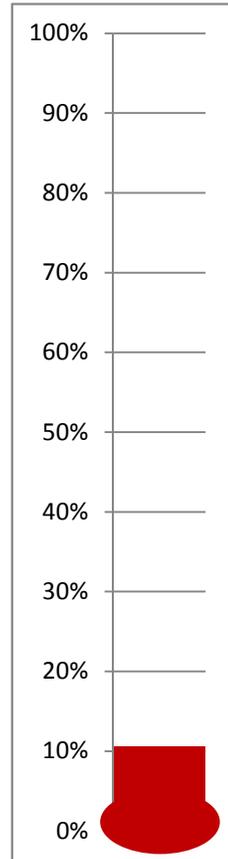
- NID assessments 2017 - 2034 are paid at same rate as for 2016 (net of penalties/interest)
- A baseline transfer of \$100,000 is made from the General Fund to the Emergency Reserve Fund each year
- Assessment fees collected for maintenance funds per the NID bond documents are excluded from this analysis. Maintenance fees may not be used for bond payment:
- Temporary Operating Levy revenues are used to pay Series 2015 COP payments; any excess is redirected to the Emergency Reserve Fund for NID payments or other lawful purposes as needed
- The Temporary Operating Levy is maintained at current level or increased through 2024.
- The Temporary Operating Levy is renewed in 2025 through at least 2034 ("no tax increase" ballot question).
- COP Savings is calculated as the Temporary Levy minus the Series 2015 COP payment (minus interest) plus \$217,500, which is the General Fund payment on the 2006 COP prior to 2016
- Property tax base/collections grow by 1.5% annually.
- After 2017, the chart shows the combined impact of both NIDs. There may be variations year-to-year due to the inability to co-mingle assessments to pay debt obligation:
- The debt service reserve is applied for final payment in 2034.
- Funding sources are color-coded to match NID payment strategy chart.
- All calculations are best estimates based on a variety of assumptions and are subject to change.

Brush Creek and Brink Meyer NIDs Payment Strategy



NID Debt Schedule and Payments

	Principal, Interest & Fees		Total Due	Paid To Date
	Brush Creek NID	Brink Meyer NID		
2015	\$230,663	\$182,874	\$413,536	\$413,536
2016	\$189,088	\$149,988	\$339,075	\$339,075
2017	\$395,938	\$287,888	\$683,825	
2018	\$394,563	\$288,613	\$683,175	
2019	\$393,038	\$289,188	\$682,225	
2020	\$396,288	\$289,613	\$685,900	
2021	\$394,313	\$289,888	\$684,200	
2022	\$392,188	\$285,088	\$677,275	
2023	\$394,838	\$285,213	\$680,050	
2024	\$392,263	\$285,188	\$677,450	
2025	\$394,131	\$284,794	\$678,925	
2026	\$395,013	\$288,250	\$683,263	
2027	\$395,213	\$285,750	\$680,963	
2028	\$395,063	\$287,950	\$683,013	
2029	\$394,563	\$284,850	\$679,413	
2030	\$393,713	\$285,375	\$679,088	
2031	\$391,700	\$284,375	\$676,075	
2032	\$393,400	\$282,875	\$676,275	
2033	\$389,600	\$285,750	\$675,350	
2034	\$782,300	\$565,750	\$1,348,050	\$688,513
TOTAL	\$7,897,869	\$5,769,255	\$13,667,124	\$1,441,124
% Paid				10.54%

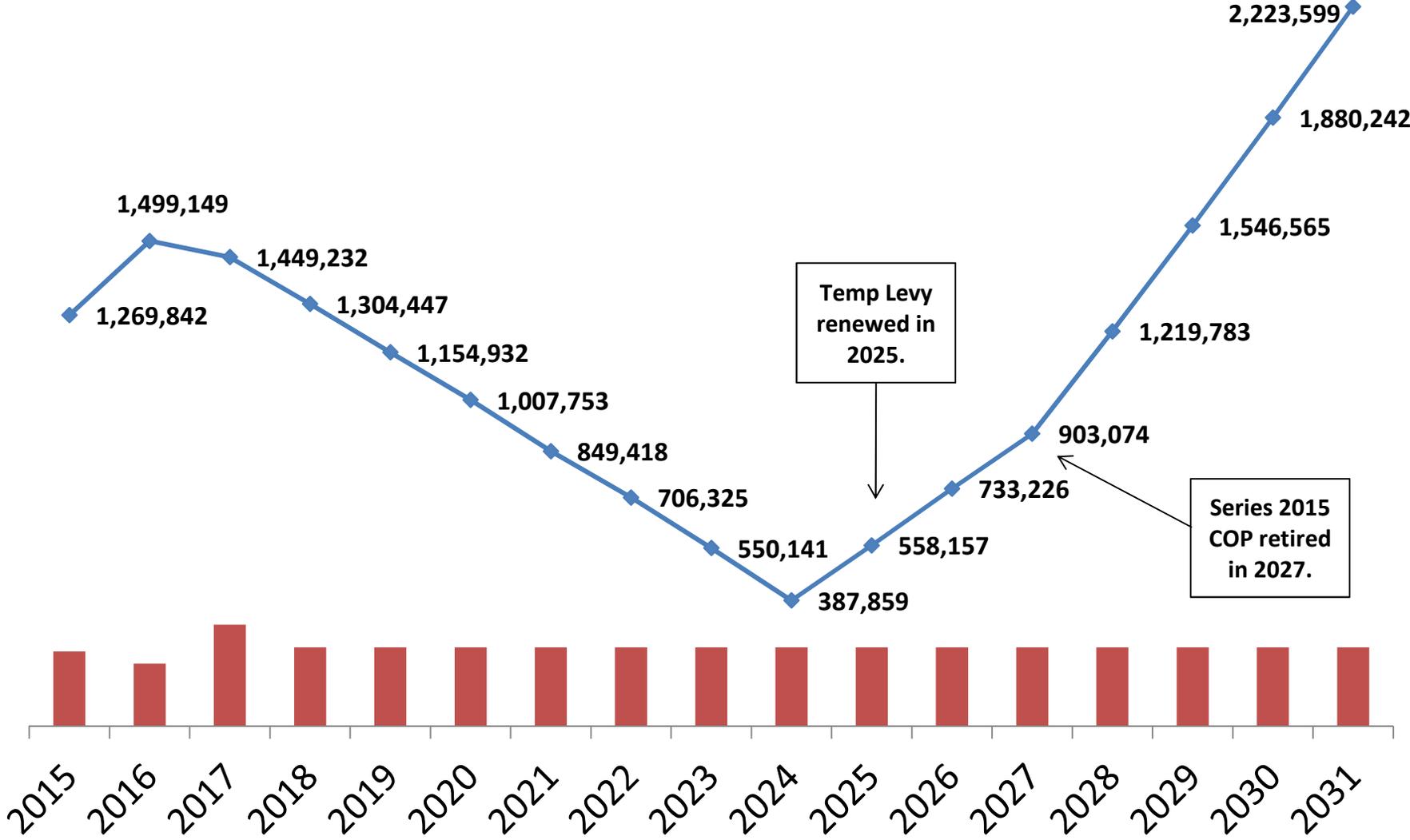


Note: The debt service reserve is applied for final payment in 2034.

Emergency Reserve Fund Balance

(assuming NID Financing Strategy)

■ NID Assessment Collections ◆ Emergency Reserve Fund Balance



Temp Levy renewed in 2025.

Series 2015 COP retired in 2027.

Emergency Reserve (50)

Last Updated 08/25/2016

	2012	2013	2014	2015	2015	2016	2016	2016	2017	2018	2019	2020	2021
	Actual	Actual	Actual	Budget	Actual	Budget	YTD	Projected	Projected	Projected	Projected	Projected	Projected
<i>Beginning Fund Balance</i>	\$ 618,931	\$ 724,989	\$ 1,070,966	\$ 1,387,966	\$ 1,387,966	\$ 1,269,842	\$ 1,269,842	\$ 1,269,842	\$ 1,499,149	\$ 1,449,231	\$ 1,304,446	\$ 1,154,931	\$ 1,007,752
Revenues													
Temporary Operating Levy	-	-	-	-	-	15,364	15,364	50,605					
Transfer from Transportation Fund	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfer from Sewer Fund	-	-	-	-	-	-	-	-	-	-	-	-	-
Transfer from General Fund	106,058	450,000	317,000	60,000	60,000	317,500	185,208	317,500	313,134	287,670	281,990	288,001	275,144
Emergency Reserve Revenues:	106,058	450,000	317,000	60,000	60,000	332,864	200,572	368,105	313,134	287,670	281,990	288,001	275,144
Total Sources:	724,989	1,174,989	1,387,966	1,447,966	1,447,966	1,602,706	1,470,414	1,637,947	1,812,283	1,736,901	1,586,436	1,442,932	1,282,896
Expenditures													
Brush Creek Sewer NID	-	104,023	-	-	-	-	-	-	84,584	153,262	151,737	154,987	153,012
Brink Meyer Road NID	-	-	-	-	178,124	146,758	73,994	138,798	278,468	279,193	279,768	280,193	280,468
Miscellaneous	-	-	-	-	-	-	-	-	-	-	-	-	-
Emergency Reserve Expenditures:	-	104,023	-	-	178,124	146,758	73,994	138,798	363,052	432,455	431,505	435,180	433,480
Estimated Ending Balance (deficit) :	724,989	1,070,966	1,387,966	1,447,966	1,269,842	1,455,948	1,396,420	1,499,149	1,449,231	1,304,446	1,154,931	1,007,752	849,417
TARGET (per reserve policy):	1,069,849	1,021,875	988,197	1,082,959	896,284			1,106,536	1,130,054	1,090,735	1,091,328	1,132,814	1,126,369

General Fund (10)

Last Updated 08/18/2016

	2012	2013	2014	2015	2015	2016	2016	2016	2017	2018	2019	2020	2021
	Actual	Actual	Actual	Budget	Actual	Budget	YTD	Projected	Projected	Projected	Projected	Projected	Projected
<i>Beginning Fund Balance</i>	\$ 320,089	\$ 374,112	\$ 738,327	\$ 1,006,217	\$ 1,137,653	\$ 1,347,819	\$ 1,514,022	\$ 1,514,022	\$ 1,034,544	\$ 566,132	\$ 322,648	\$ 72,310	\$ (197,217)
Revenues													
Taxes	1,913,138	1,966,167	2,066,998	2,076,100	2,132,142	2,159,187	1,770,546	2,178,501	2,216,492	2,260,821	2,306,038	2,352,159	2,399,202
Licenses	44,846	39,907	47,824	57,461	59,563	56,160	51,912	55,685	56,723	57,291	57,865	58,445	59,031
Permits	171,051	210,575	331,390	264,000	256,201	263,415	117,868	195,015	206,531	209,908	213,352	216,863	220,761
Franchise Fees	832,470	865,901	901,327	851,000	828,215	874,000	444,499	866,000	891,330	909,005	927,032	945,418	964,171
Other Revenue	20,411	28,280	32,657	31,200	35,096	35,261	24,684	36,261	35,833	36,416	37,012	37,620	38,240
Court Revenue	325,275	257,910	269,935	261,000	225,128	250,000	117,393	200,000	253,750	257,556	261,420	265,341	269,321
Interest Income	26,155	18,153	6,626	7,000	7,623	8,000	5,037	8,000	8,160	8,160	8,160	8,160	8,323
Miscellaneous Revenue	123,562	32,350	39,848	29,880	60,460	25,183	28,337	100,825	42,383	42,587	44,089	45,660	47,303
Grant Revenue	225,511	4,594	3,837	-	8,827	1,500	756	11,500	-	-	-	-	-
Transfers	651,000	1,027,876	582,680	346,500	348,251	343,530	200,393	293,530	340,601	337,713	334,867	332,064	329,305
Total - General Fund Revenues:	4,333,419	4,451,713	4,283,121	3,924,141	3,961,506	4,016,236	2,761,425	3,945,317	4,051,802	4,119,458	4,189,834	4,261,730	4,335,658
Total Sources	4,653,509	4,825,825	5,021,449	4,930,358	5,099,160	5,364,055	4,275,447	5,459,339	5,086,346	4,685,590	4,512,482	4,334,039	4,138,440
Expenditures													
Administration	1,275,198	766,897	896,855	995,582	789,401	1,011,983	584,694	1,013,983	1,031,995	1,052,585	1,073,775	1,095,584	1,118,034
Police	1,036,993	1,096,361	1,096,979	1,246,588	1,036,581	1,223,870	599,087	1,203,870	1,250,968	1,278,814	1,307,432	1,336,849	1,367,089
Municipal Court	138,839	135,531	138,999	156,709	132,439	153,471	78,567	153,471	156,366	159,332	162,372	165,486	168,678
Public Works	99,926	102,708	145,444	185,922	172,372	215,770	99,685	213,403	219,832	223,989	228,242	232,595	237,051
Community Development	262,111	258,083	249,809	289,400	267,231	316,393	138,508	293,562	323,098	329,967	337,005	344,215	351,605
Streets	600,367	674,175	340,633	382,729	356,757	399,656	218,593	399,656	409,318	419,263	429,499	440,036	450,885
Parks	250,508	251,594	281,741	352,079	319,765	356,007	176,825	353,281	362,732	369,635	376,721	383,995	391,465
Nature Sanctuary	17,258	19,352	27,156	31,077	29,834	39,681	13,313	35,856	40,033	40,389	40,749	41,113	41,481
Information Technology	-	45,884	34,167	40,324	34,185	43,974	32,135	43,974	44,194	44,415	44,637	44,860	45,084
Public Information	30,638	16,915	15,450	17,750	15,357	13,810	6,000	13,810	13,879	13,948	14,018	14,088	14,159
Capital Outlay (CIP)	-	-	118,562	356,175	149,139	351,035	100,980	380,004	354,664	142,934	143,734	144,434	44,800
Transfers	567,558	720,000	538,000	277,500	282,077	317,500	185,208	319,925	313,134	287,670	281,990	288,001	275,144
Total - General Fund Expenditures:	\$ 4,279,396	\$ 4,087,498	\$ 3,883,795	\$ 4,331,835	\$ 3,585,138	\$ 4,443,150	\$ 2,233,594	\$ 4,424,795	\$ 4,520,214	\$ 4,362,941	\$ 4,440,173	\$ 4,531,257	\$ 4,505,474
Estimated Ending Balance (deficit):	\$ 374,112	\$ 738,327	\$ 1,137,653	\$ 598,523	\$ 1,514,022	\$ 920,905	\$ 2,041,853	\$ 1,034,544	\$ 566,132	\$ 322,648	\$ 72,310	\$ (197,217)	\$ (367,034)

Route 9 Corridor Implementation

	SEGMENT 1	SEGMENT 2a	SUBTOTAL		SEGMENT 2b & 3	
	Route 45 to 62nd St.	62nd St. to past Clark Ave.	Segments 1 - 2a		Clark Ave. to PAC	TOTAL (segments 1-3)
Total Project Costs	\$ 768,315.91	\$ 438,838.69	\$ 1,207,154.59		\$ 2,276,461.55	\$ 3,483,616.14
Deduct MARC grants	\$ 614,652.73	\$ 351,447.27	\$ 966,100.00			\$ 966,100.00
Deduct MODOT grants	\$ -	\$ -	\$ -		\$ 1,742,000.00	\$ 1,742,000.00
Subtotal - Needed Local Match	\$ 153,663.18	\$ 87,391.42	\$ 241,054.60		\$ 534,461.55	\$ 775,516.14
						\$ -
Local Match Sources						\$ -
9 Hwy CID funds (2017)	\$ 62,602.50		\$ 62,602.50			\$ 62,602.50
9 Hwy CID funds (2018 - 2019)		\$ 250,410.00	\$ 250,410.00			\$ 250,410.00
9 Hwy CID funds (2020 - 2023)					\$ 500,820.00	\$ 500,820.00
Over/(Under)	\$ (91,060.68)	\$ 163,018.58	\$ 71,957.90		\$ (33,641.55)	\$ 38,316.36

Assumptions:

1. All proposed properties are included in 9 Hwy CID with estimated annual revenues = \$ 147,300.00
2. Only a portion of CID proceeds are available to reserve funding for administrative overhead and other CID projects = \$ 125,205.00 85%
3. CID begins generating sales taxes in the 3rd quarter of 2017.