

**NOTICE OF OPEN MEETING**  
**A G E N D A**  
**COUNCIL MEETING**  
**City of Moberly**  
**City Council Room – Moberly City Hall**  
**101 West Reed Street**  
**December 05, 2022**  
**6:00 PM**  
**AMENDED AGENDA**

**Posted:**

**Pledge of Allegiance**

**Roll Call**

**Approval of Agenda**

**Approval of Minutes**

**1.** Approval Of The City Council Meeting Minutes For November 21, 2022.

**Recognition of Visitors**

**Communications, Requests, Informational Items**

**2.** Presentation From Jeff Arp, MIRMA, To Present The Recent Risk Grant Award.

**Ordinances & Resolutions**

**3.** An Ordinance Authorizing Two Cooperative Agreements For Infill Development With Radmer Construction, LLC.

**4.** An Ordinance Approving A Missouri Highways And Transportation Commission Electronic Signature Agreement And Authorizing The City Manager To Execute The Agreement On Behalf Of The City Of Moberly.

**5.** An Ordinance Approving A Missouri Highways And Transportation Commission Traffic Engineering Assistance Program Agreement And Authorizing The City Manager To Execute The Agreement On Behalf Of The City Of Moberly.

**6.** A Resolution Authorizing And Accepting A Fourth Change Order To The Tannehill Park Splashpad Contract With Irvinbilt Constructors, Inc.

**7.** A Resolution Authorizing And Accepting A Change Order To The Ball Field Improvements Contract At Howard Hills Athletic Complex With Bleigh Construction Company.

**8.** A Resolution Authorizing A Contract For A Moberly Industrial Park Roadway And Intersection Extension Study With Bartlett & West, Inc.

**9.** A Resolution Appropriating Money Out Of The Treasury Of The City Of Moberly, Missouri.

**Anything Else to Come Before the Council**

**10.** Appointment To The Housing Authority Board.

**11.** Consideration Of A Motion To Adjourn To A Work Session.

**Adjournment**

**We invite you to attend virtually by viewing it live on the City of Moberly Facebook page. A link to the City's Channel can be found on our website's main page at [www.cityofmoberly.com](http://www.cityofmoberly.com). The public is invited to attend the Council meeting. Representatives of the news media may obtain copies of this notice by contacting the City Clerk. If a special accommodation is needed as addressed by the Americans with Disabilities Act, please contact the City Clerk twenty-four (24) hours in advance of the meeting.**

November 21, 2022  
City of Moberly, Missouri Council Minutes

Council met in regular session at 6:00 p.m. in the City Hall Council Chambers with Mayor Jeffrey presiding.

All stood and recited the pledge of allegiance led by Mayor Jeffrey.

Council Members answering the roll call were: Jerry Jeffrey, Tim Brubaker, John Kimmons, Austin Kyser, and Brandon Lucas.

A motion was made by Kyser and seconded by Kimmons to approve the agenda. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

A motion was made by Kimmons and seconded by Lucas to approve the minutes of the November 7, 2022, Council meeting as presented. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

A request was received from Roy Chapman of 213 Brinkerhoff Street for a streetlight to be installed next to the alley adjacent to 213 Brinkerhoff Street. A motion was made by Kyser and seconded by Brubaker to approve the request. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Mayor Jeffrey asked to entertain any motions to remove an item from the Consent Agenda for discussion. Hearing none, Mayor Jeffrey asked for a motion for the Consent Agenda to be read. Brubaker made a motion for City Attorney, Randall Thompson, to read the consent agenda. Lucas seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

**Resolution R1362: "A RESOLUTION APPROVING A MAINTENANCE AGREEMENT WITH CUMMINS, INC., FOR GENERATOR MAINTENANCE"**

**Resolution R1363: "A RESOLUTION AUTHORIZING THE PURCHASE OF AN EASEMENT MACHINE FOR THE PUBLIC UTILITIES DEPARTMENT"**

**Resolution R1364: "A RESOLUTION AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE MISSOURI DEPARTMENT OF ECONOMIC DEVELOPMENT FOR GRANT FUNDING FOR DOWNTOWN REVITALIZATION"**

**Resolution R1365: "A RESOLUTION AUTHORIZING SUBMISSION OF A TRAFFIC ENGINEERING ASSISTANCE PROGRAM GRANT APPLICATION FOR 2023"**

**Resolution R1366: "A RESOLUTION AUTHORIZING AND ACCEPTING A CHANGE ORDER TO THE AGREEMENT WITH L & J DEVELOPMENT, INC., FOR AMPHITHEATRE IMPROVEMENTS"**

The Resolution bills having previously been made available for public inspection were read by title one time. A motion was made by Kyser and seconded by Lucas to adopt the Resolutions. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Kyser introduced a bill for an ordinance entitled: **"AN ORDINANCE ADOPTING THE RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION TO APPROVE THE RE-ZONING APPLICATION OF THE CITY OF MOBERLY FOR PROPERTY LOCATED AT 805 AND 809 MYRA STREET AND 810 STURGEON STREET"** and moved that the bill be read two times by title for passage. Kimmons seconded the motion, and upon said motion the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The bill having previously been made available for public inspection was read by title two times. Brubaker moved that the bill be enacted into an ordinance. Lucas seconded the motion. The presiding officer having called for a vote on the motion, the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Brubaker introduced a bill for an ordinance entitled: **"AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT WITH MOBERLY COMMUNITY FOUNDATION"** and moved that the bill be read two times by title for passage. Kimmons seconded the motion, and upon said motion the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The bill having previously been made available for public inspection was read by title two times. Kyser moved that the bill be enacted into an ordinance. Brubaker seconded the motion. The presiding officer having called for a vote on the motion, the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Kimmons introduced a bill for an ordinance entitled: **"AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT AMENDMENT WITH MOBERLY AREA COMMUNITY COLLEGE FOR BALL FIELD RENTAL"** and moved that the bill be read two times by title for passage. Lucas seconded the motion, and upon said motion the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The bill having previously been made available for public inspection was read by title two times. Kimmons moved that the bill be enacted into an ordinance. Lucas seconded the motion. The presiding officer having called for a vote on the motion, the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Lucas introduced a bill for an ordinance entitled: **"AN ORDINANCE AUTHORIZING THE CITY MANAGER TO EXECUTE A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TRANSPORTATION ENHANCEMENT FUNDS PROGRAM AGREEMENT FOR SIDEWALKS ALONG ROUTE EE"** and moved that the bill be read two times by title for passage. Kimmons seconded the motion, and upon said motion the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The bill having previously been made available for public inspection was read by title two times. Kimmons moved that the bill be enacted into an ordinance. Kyser seconded the motion. The presiding officer having called for a vote on the motion, the vote was as follows: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Kyser introduced **"A RESOLUTION AUTHORIZING THE 2022 CHRISTMAS PARADE ROUTE AND PUBLIC CONSUMPTION OF ALCOHOLIC BEVERAGES"** and made a motion for it to be read. Kimmons seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The Resolution bill having previously been made available for public inspection was read by title one time. A motion was made by Lucas and

seconded by Kyser to adopt the Resolution. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Brubaker introduced **"A RESOLUTION ACCEPTING A PERMANENT SEWER EASEMENT FOR THE ROUTE JJ REGIONAL SEWER PROJECT"** and made a motion for it to be read. Kimmons seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The Resolution bill having previously been made available for public inspection was read by title one time. A motion was made by Lucas and seconded by Brubaker to adopt the Resolution. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Kimmons introduced **"A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ARCHITECT'S AGREEMENT WITH WSKF, INC"** and made a motion for it to be read. Brubaker seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The Resolution bill having previously been made available for public inspection was read by title one time. A motion was made by Brubaker and seconded by Kyser to adopt the Resolution. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Lucas introduced **"A RESOLUTION OF THE CITY OF MOBERLY, MISSOURI, AUTHORIZING AN APPLICATION FOR THE 2022 LOCAL LAW ENFORCEMENT BLOCK GRANT"** and made a motion for it to be read. Kimmons seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The Resolution bill having previously been made available for public inspection was read by title one time. A motion was made by Kimmons and seconded by Kyser to adopt the Resolution. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Kyser introduced **"A RESOLUTION OF THE CITY OF MOBERLY, MISSOURI, AUTHORIZING APPLICATION FOR A FIRE PROTECTION GRANT"** and made a motion for it to be read. Brubaker seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The Resolution bill having previously been made available for public inspection was read by title one time. A motion was made by Kimmons and seconded by Kyser to adopt the Resolution. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Brubaker introduced **"A RESOLUTION APPROPRIATING MONEY OUT OF THE TREASURY OF THE CITY OF MOBERLY, MISSOURI IN THE AMOUNT OF \$406,733.55"** and made a motion for it to be read. Kimmons seconded the motion. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none. The Resolution bill having previously been made available for public inspection was read by title one time. A motion was made by Kimmons and seconded by Brubaker to adopt the Resolution. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Monthly reports were received from various departments.

Mayor Jeffrey nominated Randy Asbury to be appointed to the Moberly Crossings Community Improvement District Board to take the place of Michael Bugalski. A motion was made by Kyser and seconded by Kimmons to appoint Randy Asbury to the Moberly Crossings Community Improvement District Board. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

Members from the News Media were: Colin Schowe, Kwix Kres Radio Station and Wynona Whitaker, Moberly Monitor Index.

A motion was made by Kyser and seconded by Brubaker to adjourn to a work session followed by a closed session to discuss the status of legal and negotiated contract. (Closed Statute 610.021) (1,12). Roll call vote: Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

A closed session was held.

Mayor Jeffrey reopened the meeting.

A motion was made by Kyser and seconded by Brubaker to adjourn. Ayes: Jeffrey, Brubaker, Kimmons, Kyser and Lucas. Nays: none.

### **Work Session**

The following was discussed at the work session:

Update To The Tourism Advisory Commission Application. *This item will not move forward.*

Appointment To The Housing Authority Board.

A Request For A Stop Sign At The Intersection Of Chandler And Bertley St. *This item will not move forward.*

A Request From Radmer Construction LLC For City Properties To Build In-Fill Housing.

Review Of Housing Assistance Program For Police Department. *This item will not move forward.*

Splash Pad Change Order.

# City of Moberly City Council Agenda Summary

Agenda Number: #3.  
 Department: Comm. Dev.  
 Date: December 5, 2022

**Agenda Item:** An Ordinance Authorizing Two Cooperative Agreements For Infill Development With Radmer Construction, LLC.

**Summary:** Eric Radmer of Radmer Construction LLC has requested 2 city properties for In-Fill Housing. 707 S 5<sup>th</sup> St. and 504 Gilman St. are the 2 properties he has requested. Attached are a drawing of the proposed house.

**Recommended**

**Action:** Approve this ordinance.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input checked="" type="checkbox"/> Proposed Ordinance	M__ S__ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution			
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	<b>Council Member</b>		
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ <b>Brubaker</b>	___	___
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M__ S__ <b>Kimmons</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M__ S__ <b>Kyser</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice	M__ S__ <b>Lucas</b>	___	___
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

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

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

**AN ORDINANCE AUTHORIZING TWO COOPERATIVE AGREEMENTS FOR INFILL DEVELOPMENT WITH RADMER CONSTRUCTION, LLC.**

**NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBERLY, MISSOURI, TO-WIT:**

**SECTION ONE:** The City of Moberly has adopted a policy and practice of encouraging infill development of housing on property acquired by the City.

**SECTION TWO:** Radmer Construction, LLC (“Radmer”) has agreed to build residences at 707 S. 5<sup>th</sup> Street and 504 Gilman Street which will comply in all respects with city codes and development plans.

**SECTION THREE:** Radmer has negotiated two cooperative agreements with city staff to develop the addresses listed above for infill development as provided in the attached Cooperative Agreements for Infill Development and said Cooperative Agreements are hereby authorized and the City Manager is hereby authorized to execute said Cooperative Agreements.

**SECTION FOUR:** This Ordinance shall be in full force and effect from and after its passage and adoption by the Council of the City of Moberly, Missouri, and its signature by the officer presiding at the meeting at which it was passed and adopted.

**PASSED AND ADOPTED** by the Council of the City of Moberly, Missouri, this 5th day of December, 2022.

**ATTEST:**

\_\_\_\_\_  
**Presiding Officer at Meeting**

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

**COOPERATIVE AGREEMENT FOR INFILL DEVELOPMENT**

THIS COOPERATIVE AGREEMENT FOR INFILL DEVELOPMENT (this “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022 ( the “Effective Date”) by and between THE CITY OF MOBERLY, a city of the third class and a Missouri municipality having a principal office at 101 West Reed Street, Moberly, Missouri, 65270 (the “City”) and Radmer Construction, a Missouri Limited Liability Company, having a business office at 308 S. 6<sup>th</sup> Street in Moberly, Missouri (the “Developer”).

**RECITALS**

- A. The Developer wishes to acquire and redevelop Property which is currently underutilized and which activities by the Developer the City recognizes will facilitate the City’s economic development goals and improve property values in the area where the Property is located.
- B. The City is willing to convey the Property to the Developer pursuant to the terms of this Agreement in exchange for the Developer’s promise to construct a residence on the Property, all in accordance with the terms of this Agreement and building plans submitted to the City.

**AGREEMENT**

NOW, THEREFORE, in consideration of the above premises and the mutual promises and covenants set forth in this Agreement, the City and Developer each hereby agrees as follows:

**ARTICLE I.  
THE PROPERTY AND CONSTRUCTION**

**Section 1.1. Conveyance of the Property.** Subject to the terms and conditions of this Agreement, the City agrees to convey infill property zoned for residential use in exchange for Developer’s agreement to construct a residence in conformance with building plans submitted and approved by the City.

**Section 1.2. The Property.** The Property shall mean the property at 504 Gilman Street, Moberly, Missouri and further legally described as East 65’ of Lot 15 and East 65’ of Lot 16, Block 5 of Christian’s Subdivision of Hunt and Godfrey’s Addition to the City of Moberly, Randolph County, Missouri.

**Section 1.3. New Construction.** The Developer shall deposit \$1,000.00 (the “deposit”) within thirty (30) days of the Effective Date. The Developer shall pay for all permitting fees and other standard construction costs. Developer shall submit building plans and make application for a building permit within six (6) months of the Effective Date. Developer agrees to initiate construction within thirty (30) days of receipt of the building permit. Developer agrees to complete construction of the residence within one (1) year of the Effective Date. Developer agrees to abide by all construction standards required under city Building Regulations and Inspections. The \$1,000.00 deposit will be returned after the final occupancy inspection is done.

**ARTICLE II.  
CONVEYANCE AGREEMENT**

**Section 2.1. Transfer of the Property.** Subject to the terms and conditions of this Agreement and within thirty (30) days of the acceptance by the City of the site and building plan(s) and issuance of the building permit, the City agrees to convey the Property at closing. The purchase price for the Property shall be One Dollar (\$1.00) and other good and valuable consideration as stated herein.

**Section 2.2. Deed.** The conveyance of title shall be by Quit-Claim deed in which the City shall convey to Developer all the right, title and interest held by the City in the Property and not by Warranty Deed. City makes no warranties as to the merchantability of title. Developer agrees to record the Quit-Claim deed contemporaneously with delivery of the deed.

**Section 2.3. Events of Closing.**

(a) Each Party shall execute, acknowledge, and deliver, after the closing, such further assurances, instruments and documents as the other may reasonable request in order to fulfill the intent of the Purchase Agreement and the transactions contemplated hereby.

(b) If Developer desires a Title Commitment be issued prior to closing, Developer shall pay the costs of any title commitment and for premiums on any owner’s policy of title insurance, and any title endorsements to any such policy, issued by the Title Company that the Developer elects to obtain on the Property. All outstanding real estate taxes, and all other public or governmental charges and public or private assessments against the Property which are or may be payable on an annual basis (including liens or encumbrances for sewer, water, drainage or other public improvements whether completed or commences on or prior to the Effective Date or subsequent thereto), shall be paid by Developer. All other costs of closing shall be borne by the Developer including, without limitation, any applicable state, county and municipal transfer taxes, closing costs and recording fees charged by the Title Company.

(c) **BY CLOSING ON THE PROPERTY, THE DEVELOPER ACKNOWLEDGES THAT THE DEVELOPER HAS HAD ADEQUATE OPPORTUNITY TO INSPECT, REVIEW AND CONSIDER ALL MATTERS AFFECTING THE USE, OWNERSHIP AND DEVELOPMENT OF THE PROPERTY AND THAT THE CONVEYANCE OF SAME BY THE CITY IS TO BE MADE ON AN “AS IS/WHERE IS” BASIS AND WITHOUT RECOURSE TO THE CITY. THE CONVEYANCE OF THE PROPERTY SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (i) ANY IMPLIED WARRANTY OR MERCHANTABILITY, FITNESS OR HABITABILITY, GOOD OR FAIR CONDITION OR REPAIR OR GOOD AND WORKMANLIKE CONSTRUCTION AND (ii) ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO SITE CONDITIONS AS OF THE EFFECTIVE DATE AND OF THE CLOSING AND CONVEYANCE OF THE PROPERTY OR POTENTIAL LIABILITIES UNDER OR WITH RESPECT TO ANY FEDERAL, STATE OR LOCAL ENVIRONMENTAL LAW OR REGULATION, ALL OF WHICH WARRANTIES ARE EXPRESSLY DISCLAIMED BY THE CITY AND EACH OF WHICH DISCLAIMERS IS HEREBY AGREED TO AND ACCEPTED BY THE DEVELOPER.**

**Section 2.4. Real Estate Brokers.** The City and Developer hereby state and warrant to each other that neither has dealt with any real estate broker, agent or salespersons in connection with this transaction and the sale of the Property. To the full extent permitted by law, the City and Developer

each agree to indemnify and hold the other harmless against any claims for real estate commissions or consultant fees claiming representation of such party in this transaction. Such obligations to indemnify and hold harmless shall include, without limitation, all costs and attorneys’ fees relating to litigation and other proceedings.

**ARTICLE III  
BREACH**

**Section 3.1. Breach and Compliance; Right to Cure; Remedies Not Exclusive.** In the event of substantial non-compliance with any of the terms of this Agreement, written notice of same may be delivered to the Developer by the City, and, if the Developer shall not have corrected such substantial non-compliance within Forty-five (45) days after receipt of such notice the City may institute such proceedings as may be necessary or desirable in the City’s sole opinion to cure and remedy such default including, without limitation, the remedy of specific performance. If Developer fails to correct any such substantial non-compliance as herein provided it shall forfeit the deposit. None of the foregoing remedies shall be exclusive or any other remedy otherwise available to the City at law or in equity and any and all such remedies may be exercised by the City individually, sequentially, collectively, or in the alternative, all at the City’s sole discretion.

**ARTICLE IV  
MISCELLANEOUS PROVISIONS**

**Section 4.1. No Assignment.** Neither Party shall be permitted to sell, assign or otherwise transfer its interest in the Agreement in whole or in part to any other individual or entity.

**Section 4.2. Term of Agreement.** This Agreement shall continue in force until the date of the issuance of the last Certificate of Occupancy for any Building(s) on the Property. The rights and privileges granted to and the duties and obligations imposed on the Developer by this Agreement shall apply only to the Property.

**Section 4.3. Notices.** Whenever notice or other communication is called for in this Agreement to be given or is otherwise given, such notice shall be in writing addressed to the addressees at the address set forth below, and transmitted by first class mail:

City:	City of Moberly Attention: Tom Sanders	Moberly, Missouri 65270
Developer:	Radmer Construction	Moberly, Missouri 65270

**Section 4.4. Choice of Law; Venue; Waiver of Objections.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. The Parties agree that any action at law, suit in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Randolph County, Missouri and waive any objection based upon venue or forum non conveniens or otherwise.

**Section 4.5. Entire Agreement; Amendments; No Waiver by Prior Actions.** The Parties agree that this Agreement constitutes the entire agreement between them and no other agreements or

representations have been made by the Parties. This Agreement shall only be amended in writing and effective when signed by the duly authorized agents of the Parties. The failure of any Party to insist in any one or more cases upon the strict performance of any term, covenant or condition shall not constitute a waiver or relinquishment for the future of any such term, covenant or condition.

**Section 4.6. No Waiver of Sovereign Immunity; Public Liability Strictly Limited.** Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City’s Sovereign Immunity. The Parties agree that in no event shall the City, or any of its officials, officers, agents, attorneys, employees, or representatives have any liability in damages or any other monetary liability to the Developer or any lessee, sublessee, assign, heir or personal representative of the Developer in respect of any suit, claim, or cause of action arising out of this Agreement.

**Section 4.7. Deposit Refund.** Upon issuance of an Occupancy Permit for the completed residence the City agrees to account for and refund any portion of the deposits not expended during the project.

**Section 4.8. Execution in Counterparts.** Each person executing this Agreement warrants and represents that he or she has authority to do so on behalf of the entity he or she represents. This Agreement may be executed in two or more counterparts, and all counterparts so executed shall for all purposes constitute one and same instrument, binding on the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**CITY OF MOBERLY**

By: \_\_\_\_\_  
Brian Crane, City Manager

**ATTEST:**

\_\_\_\_\_  
Shannon Hance, City Clerk

**DEVELOPER, JOHNSTON BUILDERS, LLC**

By: \_\_\_\_\_  
Eric Radmer

ACKNOWLEDGEMENTS

STATE OF MISSOURI )  
 )SS  
COUNTY OF RANDOLPH )

On this \_\_\_ day of \_\_\_\_\_, 2022, before me appeared Brian Crane, to me personally known, who being by me first duly sworn, did say that he is the City Manager of the City of Moberly, Missouri, and that said instrument was signed on behalf of said City by authority of its City Council and said City Manager acknowledged said instrument to be the free act and deed of said City.

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

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

My commission expires: \_\_\_\_\_

Seal:

STATE OF MISSOURI )  
 )SS  
COUNTY OF RANDOLPH )

On this \_\_\_ day of \_\_\_\_\_, 2022, before me appeared Eric Radmer, to me personally known, who being by me first sworn, did say that she is a single person and she acknowledged said instrument to be her free act and deed.

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

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

My commission expires: \_\_\_\_\_

Seal:

**COOPERATIVE AGREEMENT FOR INFILL DEVELOPMENT**

THIS COOPERATIVE AGREEMENT FOR INFILL DEVELOPMENT (this “Agreement”) is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2022 ( the “Effective Date”) by and between THE CITY OF MOBERLY, a city of the third class and a Missouri municipality having a principal office at 101 West Reed Street, Moberly, Missouri, 65270 (the “City”) and Radmer Construction LLC, a Missouri Limited Liability Company, having a business office at 13405 N Sportsmans Drive in Hallsville, Missouri (the “Developer”).

**RECITALS**

- A. The Developer wishes to acquire and redevelop Property which is currently underutilized and which activities by the Developer the City recognizes will facilitate the City’s economic development goals and improve property values in the area where the Property is located.
- B. The City is willing to convey the Property to the Developer pursuant to the terms of this Agreement in exchange for the Developer’s promise to construct a residence on the Property, all in accordance with the terms of this Agreement and building plans submitted to the City.

**AGREEMENT**

NOW, THEREFORE, in consideration of the above premises and the mutual promises and covenants set forth in this Agreement, the City and Developer each hereby agrees as follows:

**ARTICLE I.  
THE PROPERTY AND CONSTRUCTION**

**Section 1.1. Conveyance of the Property.** Subject to the terms and conditions of this Agreement, the City agrees to convey infill property zoned for residential use in exchange for Developer’s agreement to construct a residence in conformance with building plans submitted and approved by the City.

**Section 1.2. The Property.** The Property shall mean the property at 707 South 5th Street, Moberly, Missouri and further legally described as All of Lot 18, Block 5 of Christians Subdivision of Outlots 4 to 16, inclusive, of Hunt & Godfrey Addition to the City of Moberly, Randolph County, Missouri.

**Section 1.3. New Construction.** The Developer shall deposit \$1,000.00 (the “deposit”) within thirty (30) days of the Effective Date. The Developer shall pay for all permitting fees and other standard construction costs. Developer shall submit building plans and make application for a building permit within six (6) months of the Effective Date. Developer agrees to initiate construction within thirty (30) days of receipt of the building permit. Developer agrees to complete construction of the residence within one (1) year of the Effective Date. Developer agrees to abide by all construction standards required under city Building Regulations and Inspections. The \$1,000.00 deposit will be returned after the final occupancy inspection is done.

**ARTICLE II.  
CONVEYANCE AGREEMENT**

**Section 2.1. Transfer of the Property.** Subject to the terms and conditions of this Agreement and within thirty (30) days of the acceptance by the City of the site and building plan(s) and issuance of the building permit, the City agrees to convey the Property at closing. The purchase price for the Property shall be One Dollar (\$1.00) and other good and valuable consideration as stated herein.

**Section 2.2. Deed.** The conveyance of title shall be by Quit-Claim deed in which the City shall convey to Developer all the right, title and interest held by the City in the Property and not by Warranty Deed. City makes no warranties as to the merchantability of title. Developer agrees to record the Quit-Claim deed contemporaneously with delivery of the deed.

**Section 2.3. Events of Closing.**

(a) Each Party shall execute, acknowledge, and deliver, after the closing, such further assurances, instruments and documents as the other may reasonable request in order to fulfill the intent of the Purchase Agreement and the transactions contemplated hereby.

(b) If Developer desires a Title Commitment be issued prior to closing, Developer shall pay the costs of any title commitment and for premiums on any owner’s policy of title insurance, and any title endorsements to any such policy, issued by the Title Company that the Developer elects to obtain on the Property. All outstanding real estate taxes, and all other public or governmental charges and public or private assessments against the Property which are or may be payable on an annual basis (including liens or encumbrances for sewer, water, drainage or other public improvements whether completed or commences on or prior to the Effective Date or subsequent thereto), shall be paid by Developer. All other costs of closing shall be borne by the Developer including, without limitation, any applicable state, county and municipal transfer taxes, closing costs and recording fees charged by the Title Company.

(c) **BY CLOSING ON THE PROPERTY, THE DEVELOPER ACKNOWLEDGES THAT THE DEVELOPER HAS HAD ADEQUATE OPPORTUNITY TO INSPECT, REVIEW AND CONSIDER ALL MATTERS AFFECTING THE USE, OWNERSHIP AND DEVELOPMENT OF THE PROPERTY AND THAT THE CONVEYANCE OF SAME BY THE CITY IS TO BE MADE ON AN “AS IS/WHERE IS” BASIS AND WITHOUT RECOURSE TO THE CITY. THE CONVEYANCE OF THE PROPERTY SHALL BE WITHOUT REPRESENTATION OR WARRANTY OF ANY KIND OR NATURE WHATSOEVER, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION: (i) ANY IMPLIED WARRANTY OR MERCHANTABILITY, FITNESS OR HABITABILITY, GOOD OR FAIR CONDITION OR REPAIR OR GOOD AND WORKMANLIKE CONSTRUCTION AND (ii) ANY WARRANTIES OR REPRESENTATIONS WITH RESPECT TO SITE CONDITIONS AS OF THE EFFECTIVE DATE AND OF THE CLOSING AND CONVEYANCE OF THE PROPERTY OR POTENTIAL LIABILITIES UNDER OR WITH RESPECT TO ANY FEDERAL, STATE OR LOCAL ENVIRONMENTAL LAW OR REGULATION, ALL OF WHICH WARRANTIES ARE EXPRESSLY DISCLAIMED BY THE CITY AND EACH OF WHICH DISCLAIMERS IS HEREBY AGREED TO AND ACCEPTED BY THE DEVELOPER.**

**Section 2.4. Real Estate Brokers.** The City and Developer hereby state and warrant to each other that neither has dealt with any real estate broker, agent or salespersons in connection with this transaction and the sale of the Property. To the full extent permitted by law, the City and Developer

each agree to indemnify and hold the other harmless against any claims for real estate commissions or consultant fees claiming representation of such party in this transaction. Such obligations to indemnify and hold harmless shall include, without limitation, all costs and attorneys’ fees relating to litigation and other proceedings.

**ARTICLE III  
BREACH**

**Section 3.1. Breach and Compliance; Right to Cure; Remedies Not Exclusive.** In the event of substantial non-compliance with any of the terms of this Agreement, written notice of same may be delivered to the Developer by the City, and, if the Developer shall not have corrected such substantial non-compliance within Forty-five (45) days after receipt of such notice the City may institute such proceedings as may be necessary or desirable in the City’s sole opinion to cure and remedy such default including, without limitation, the remedy of specific performance. If Developer fails to correct any such substantial non-compliance as herein provided it shall forfeit the deposit. None of the foregoing remedies shall be exclusive or any other remedy otherwise available to the City at law or in equity and any and all such remedies may be exercised by the City individually, sequentially, collectively, or in the alternative, all at the City’s sole discretion.

**ARTICLE IV  
MISCELLANEOUS PROVISIONS**

**Section 4.1. No Assignment.** Neither Party shall be permitted to sell, assign or otherwise transfer its interest in the Agreement in whole or in part to any other individual or entity.

**Section 4.2. Term of Agreement.** This Agreement shall continue in force until the date of the issuance of the last Certificate of Occupancy for any Building(s) on the Property. The rights and privileges granted to and the duties and obligations imposed on the Developer by this Agreement shall apply only to the Property.

**Section 4.3. Notices.** Whenever notice or other communication is called for in this Agreement to be given or is otherwise given, such notice shall be in writing addressed to the addressees at the address set forth below, and transmitted by first class mail:

City:	City of Moberly Attention: Tom Sanders	Moberly, Missouri 65270
Developer:	Radmer Construction 13405 N Sportsmans Dr	Hallsville, Missouri 65255

**Section 4.4. Choice of Law; Venue; Waiver of Objections.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri. The Parties agree that any action at law, suit in equity, or other judicial proceeding arising out of this Agreement shall be instituted only in the Circuit Court of Randolph County, Missouri and waive any objection based upon venue or forum non conveniens or otherwise.

**Section 4.5. Entire Agreement; Amendments; No Waiver by Prior Actions.** The Parties agree that this Agreement constitutes the entire agreement between them and no other agreements or representations have been made by the Parties. This Agreement shall only be amended in writing and effective when signed by the duly authorized agents of the Parties. The failure of any Party to insist in any one or more cases upon the strict performance of any term, covenant or condition shall not constitute a waiver or relinquishment for the future of any such term, covenant or condition.

**Section 4.6. No Waiver of Sovereign Immunity; Public Liability Strictly Limited.** Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City’s Sovereign Immunity. The Parties agree that in no event shall the City, or any of its officials, officers, agents, attorneys, employees, or representatives have any liability in damages or any other monetary liability to the Developer or any lessee, sublessee, assign, heir or personal representative of the Developer in respect of any suit, claim, or cause of action arising out of this Agreement.

**Section 4.7. Deposit Refund.** Upon issuance of an Occupancy Permit for the completed residence the City agrees to account for and refund any portion of the deposits not expended during the project.

**Section 4.8. Execution in Counterparts.** Each person executing this Agreement warrants and represents that he or she has authority to do so on behalf of the entity he or she represents. This Agreement may be executed in two or more counterparts, and all counterparts so executed shall for all purposes constitute one and same instrument, binding on the Parties hereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

**CITY OF MOBERLY**

By: \_\_\_\_\_  
Brian Crane, City Manager

**ATTEST:**

\_\_\_\_\_  
Shannon Hance, City Clerk

**DEVELOPER, JOHNSTON BUILDERS, LLC**

By: \_\_\_\_\_  
Eric Radmer

ACKNOWLEDGEMENTS

STATE OF MISSOURI )  
 )SS  
COUNTY OF RANDOLPH )

On this \_\_\_ day of \_\_\_\_\_, 2022, before me appeared Brian Crane, to me personally known, who being by me first duly sworn, did say that he is the City Manager of the City of Moberly, Missouri, and that said instrument was signed on behalf of said City by authority of its City Council and said City Manager acknowledged said instrument to be the free act and deed of said City.

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

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

My commission expires: \_\_\_\_\_

Seal:

STATE OF MISSOURI )  
 )SS  
COUNTY OF RANDOLPH )

On this \_\_\_ day of \_\_\_\_\_, 2022, before me appeared Eric Radmer, to me personally known, who being by me first sworn, did say that she is a single person and she acknowledged said instrument to be her free act and deed.

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

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

My commission expires: \_\_\_\_\_

Seal:

# City of Moberly City Council Agenda Summary

Agenda Number: #4.  
 Department: Public Utilities  
 Date: December 5, 2022

**Agenda Item:** An Ordinance Approving A Missouri Highways And Transportation Commission Electronic Signature Agreement And Authorizing The City Manager To Execute The Agreement On Behalf Of The City Of Moberly

**Summary:** The Missouri Highway and Transportation Commission has requested the City of Moberly enter into an agreement authorizing the use of electronic signatures for utility permits for work done by the city in Commission right of way. This is a change from the telephone call approvals previously utilized, which is no longer available.

**Recommended**

**Action:** Direct staff to create a new ordinance approving the agreement.

**Fund Name:** N/A

**Account Number:** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input checked="" type="checkbox"/> Proposed Ordinance	M___ S___ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M___ S___ <b>Brubaker</b>	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M___ S___ <b>Kimmons</b>	___	___
<input type="checkbox"/> P/C Minutes	<input checked="" type="checkbox"/> Contract	M___ S___ <b>Lucas</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice		___	___
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

**BILL NO:** \_\_\_\_\_

**ORDINANCE NO:** \_\_\_\_\_

**AN ORDINANCE APPROVING A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION ELECTRONIC SIGNATURE AGREEMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF MOBERLY.**

**Whereas,** the Missouri Highway and Transportation Commission (the “Commission”) has requested the City of Moberly enter into an agreement authorizing the use of electronic signatures for utility permits for work done by the city in Commission right of way; and

**Whereas,** the Commission has submitted the attached Electronic Signature Agreement for purposes of memorializing this agreement; and

**Whereas,** city staff recommends approving this Agreement and authorizing the City Manager to execute the agreement on behalf of the city.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBERLY, MISSOURI TO WIT:**

**SECTION ONE:** That the city hereby accepts and approves the Missouri Highways and Transportation Commission’s Electronic Signature Agreement (the “Agreement”) attached hereto.

**SECTION TWO:** That the City Manager, Brian Crane, is hereby authorized to execute the Agreement on behalf of the City of Moberly and to take such other and further action as may be required to effectuate the purpose of this ordinance.

**SECTION THREE:** This ordinance shall be in full force and effect upon passage by the City Council.

**PASSED AND ADOPTED** by the Council of the City of Moberly, Missouri, this 5<sup>th</sup> day of December, 2022.

\_\_\_\_\_  
Presiding Officer at Meeting

**ATTEST:**

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

CCO Form: TR50  
Approved: 12/10 (ASB)  
Revised: 06/19 (GH)  
Modified:

MoDOT District: Northeast  
MoDOT Agreement Administrator: Zachary Walker  
eAgreement No.: 22-11-74000

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
ELECTRONIC SIGNATURE AGREEMENT**

THIS AGREEMENT is entered into by the Missouri Highways and Transportation Commission (hereinafter "Commission") and the **City of Moberly** (hereinafter "Utility").

WITNESSETH:

WHEREAS, the Utility proposes to do work on Commission right of way related to providing utility services; and

WHEREAS, in order to reduce paperwork, which will improve the business operations of the Utility and the Commission, it is agreed that this Agreement will be the only Agreement executed to cover the use of electronic signatures for utility permits for work by the Utility on Commission right of way. This Agreement will remain in full force until both parties agree, in writing, that amendments are needed, or unless the Agreement is terminated by either party.

NOW, THEREFORE, in consideration of these mutual covenants, the parties agree as follows:

(1) EXECUTION OF PERMIT APPLICATION: Permit applications must be executed by both the Commission and the Utility. Execution shall be by electronic signature. Authentication of electronic signature will be determined solely by the Commission. Nothing in this agreement shall restrict the Commission from accepting only original permit applications.

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

(3) UTILITY REPRESENTATIVE: The Utility will be issued userIDs. The Utility shall be solely responsible for control of it userIDs. The Utility agrees that use of a userID alone is proof that the individual using the userID was authorized to sign permits on behalf of the Utility.

(4) INDEMNIFICATION:

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

(B) The Utility is required or will require any contractor procured by the Utility to work under this Agreement:

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

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

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

(5) PERMIT REQUIREMENT: The Utility shall obtain a no cost permit from the Commission's district engineer prior to adjusting or relocating its property from, within, or onto the Commission's right of way. The permit shall be signed via userID. Nothing in this provision shall limit the ability of the Commission to require an original signature.

(6) CONDITION OF RIGHT OF WAY: Upon completion of any work by Utility pursuant to a utility permit obtained by Utility through the use of electronic signatures, all leftover materials and debris resulting from the work shall be removed by the Utility and the right-of-way left in a neat, workmanlike condition, free of holes, mounds of dirt, or other objectionable material.

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

(8) VENUE: It is agreed by the parties that any action at law, suit in equity, or

other judicial proceeding to enforce or construe this Agreement, or respecting its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

(9) ASSIGNMENT: The Utility shall not assign, transfer, or delegate any interest in this Agreement without the prior written consent of the Commission.

(10) CANCELLATION: It is agreed that either party may cancel this Agreement at any time by providing the other party with thirty (30) days advance written notification of such cancellation.

*[Remainder of Page Intentionally Left Blank]*

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

Executed by the Utility on \_\_\_\_\_(Date).

Executed by the Commission on \_\_\_\_\_(Date).

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF MOBERLY

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Print Name \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

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

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

Approved as to Form:

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

\_\_\_\_\_  
Title Attorney

**Certificate Of Completion**

Envelope Id: 041DA185EA96441A8F29B6BC3AFC4D8A	Status: Sent
Subject: Complete with DocuSign: 2022-11-74000.pdf	
Source Envelope:	
Document Pages: 4	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Zachary Walker
Time Zone: (UTC-06:00) Central Time (US & Canada)	1860 Michael Faraday Drive
	Suite 100
	Reston, VA 20190
	zachary.walker@modot.mo.gov
	IP Address: 168.166.80.221

**Record Tracking**

Status: Original	Holder: Zachary Walker	Location: DocuSign
11/3/2022 12:24:25 PM	zachary.walker@modot.mo.gov	

**Signer Events**

Signer Events	Signature	Timestamp
Randall Thompson cityattorney@cityofmoberly.com Attorney Security Level: Email, Account Authentication (Optional), Access Code		Sent: 11/3/2022 12:42:11 PM Viewed: 11/14/2022 11:26:34 AM
<b>Electronic Record and Signature Disclosure:</b> Accepted: 11/14/2022 11:26:34 AM ID: e8519ce4-2a09-45a6-bf70-596a5331a51e		
Brian Crane bcrane@cityofmoberly.com Security Level: Email, Account Authentication (Optional), Access Code		
<b>Electronic Record and Signature Disclosure:</b> Accepted: 5/12/2022 9:09:31 AM ID: f63d4583-fbaf-4bc0-a3c9-a19403cfd0e		
Shannon Hance shance@cityofmoberly.com Security Level: Email, Account Authentication (Optional), Access Code		
<b>Electronic Record and Signature Disclosure:</b> Accepted: 11/14/2022 10:06:01 AM ID: bc74db4d-9884-47d8-93eb-fe7612374381		
Gary J. Holtmeyer Gary.Holtmeyer@modot.mo.gov Security Level: Email, Account Authentication (Optional)		
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		
Eric E. Schroeter Eric.Schroeter@modot.mo.gov Security Level: Email, Account Authentication (Optional)		
<b>Electronic Record and Signature Disclosure:</b> Not Offered via DocuSign		
Pamela J. Harlan pamela.harlan@modot.mo.gov Security Level: Email, Account Authentication (Optional)		



**Missouri Highways and Transportation Commission  
DocuSign, Inc. Express Electronic Signature Agreement**

The Missouri Highways and Transportation Commission (hereinafter, Commission), acting by and through the Missouri Department of Transportation (MoDOT) is willing to provide to the Authorized Representative of the Contractor/Vendor/Consultant (Entity) who is duly authorized to act on behalf of said Entity (hereinafter you or I) and accept from you your electronically affixed authorized signature and seal, as required to validate a binding agreement between the Commission and the Entity, on all Commission/MoDOT documents, including but not limited to disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and the like, (hereinafter, Commission Documents) that are processed, generated, and exchanged by and between the Commission and you, acting on behalf of the Entity, electronically through the utilization of the DocuSign, Inc. Express (DocuSign) eSignature Application. In consideration of mutual covenants, you agree as follows:

- 1) You are the person duly authorized and designated by the Entity to receive, access and agree to the terms of this agreement on behalf of the Entity by clicking the Agree button below.
- 2) You have the authority to specifically consent and agree that the Commission, in its discretion, provide all disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and all other evidence of the transaction between the Commission and the Entity electronically (hereinafter all such documentation is referred to as electronic record(s)).
- 3) The email address, User ID and password authorized to access the electronic agreement via DocuSign are your own and are not shared with any other person.
- 4) All of the required notices and disclosures will be sent to the email address authorized through DocuSign.
- 5) You are duly authorized to receive electronically through DocuSign, access and act upon all electronic records, to provide all required information and electronically affix your signature and seal, as applicable, on behalf of the Entity named in such Commission Documents via DocuSign,.
- 6) The system through which you are accessing DocuSign and its eSignature Application meets the minimum requirements to access DocuSign, view, receive, retrieve, download, print, store, send and transmit all electronic records and any and all other communications sent to you from the Commission through the DocuSign web site.
- 7) All communications in electronic format from the Commission to you through DocuSign are considered in-writing. You have the ability to download and print any documents processed through DocuSign for 30 calendar days after such documents are first sent, as long as you are an authorized user of the DocuSign system. After such time, you may request copies by contacting the Commission through the Secretary to the Commission at [mhtc@modot.mo.gov](mailto:mhtc@modot.mo.gov) or by telephone at 573-751-2824. You shall print or download for your records a copy of any communication that is important to you to retain.
- 8) You have implemented appropriate security measures to ensure that only you have access through DocuSign to receive, access and electronically affix signatures to electronic records, as applicable, Commission/MoDOT sends to you through DocuSign. It is your sole responsibility to ensure your adequate protection, confidentiality and secrecy of the DocuSign Authentication Code, and any other user ID and/or Password combinations that may be required for you to access the DocuSign eSignature services and any disclosure thereof to any other person or

communication thereof through unsecure medium, such as traditional electronic mail, shall be entirely at your risk. You shall be liable for any unauthorized usage of your ID/Password combination and the DocuSign Authentication Code.

9) You agree and authorize the Commission to respond to and act upon any and all transactions initiated and transmitted by you electronically through DocuSign. Any transaction initiated and transmitted by you to the Commission through DocuSign and its eSignature application shall be deemed to have been authorized by you, and the Commission is entitled to assume that the said transactions are so authorized by you and the Commission shall be protected upon acting thereon.

10) You shall be fully liable to the Commission for every transaction entered into using a valid DocuSign Authentication Code sent to you through certified mail, telephone call or Short Message Service (SMS) text, with or without your knowledge. In no event will the Commission be liable to you for any special, direct, indirect, consequential or incidental loss or damages even if you have advised the Commission/MoDOT of such possibility. The Commission shall not be liable for any misuse, if any, of any data placed on the internet by third parties hacking or accessing the application and hosting server without authorization.

11) The Entity shall take responsibility for all the transactions with the Commission conducted electronically through DocuSign and will abide by the record of the transactions generated by DocuSign or by the Commission/MoDOT through DocuSign. Further such record of transactions shall be conclusive proof and binding for all purposes and may be used as conclusive evidence in any proceedings. All records of the Commission and DocuSign, whether in electronic form, magnetic medium, documents or any other form, with respect to electronic transactions sent or received through use of DocuSign shall be conclusive evidence of such transactions and shall be binding on the Entity.

12) The Commission/MoDOT shall not be liable for any loss or damage whatsoever caused, arising directly or indirectly, in connection with the services and /or this Agreement, including without limitation any: (A) Loss of data; and (B) Interruption or stoppages to your access to DocuSign and its eSignature application and/or processing of electronic transactions due to any operational or technical difficulties/reason beyond our control for any other reason. The Commission, along with its members, employees, agents, executors, successors and assigns shall not be liable for any damages or claims or injuries arising out of or in connection with the use of DocuSign and its eSignature application or its non-use including non-availability or failure of performance, loss or corruption of data, loss of or damage to property (including profit and goodwill), work stoppage, computer failure or malfunctioning or interruption of business, error, omission, deletion, defect, delay in operation or transmission, communication line failure or for any failure to act upon electronic transaction for any cause.

13) You shall keep confidential all information, in whatever form, produced, prepared, observed or received by you to the extent that such information is confidential by law or otherwise required by the Commission.

14) This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Missouri. It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

15) The terms of this agreement and any amendments thereafter shall remain in full force and effect for as long as DocuSign is active, or by thirty (30) days written notification by either party

of their intent to cancel this agreement.

**By checking the I Agree button, I confirm that:**

1. I am the person named in the documents to which I will electronically affix my signature; that I am authorized to sign such documents on behalf of the Entity named in the documents; that I will read and know the contents of such electronically signed documents including all exhibits attached thereto, and that the statements made therein are true, and that I will not omit any information needed to make such documents true; and that I will take appropriate security measures to insure that I have sole access to the documents sent to me by the Commission and MoDOT through the email address provided on DocuSign.
2. I and the Entity shall indemnify and save harmless the Commission, its members, employees, officers, successors, assigns, agents and representatives against any and all claims, losses, damages, costs, liabilities and expense actually incurred, suffered or paid by the Commission, its members, employees, officers, successors, assigns, agents and representatives, directly or indirectly, and also against all demands, actions, suits, proceedings made, filed, instituted against the Commission, its members, employees, officers, successors, agents and representatives in connection with, or arising out of, or relating to the Commission accepting and acting or not accepting and not acting for any reason whatsoever pursuant to, in accordance with or relying upon, data received, through DocuSign and its eSignature application you or any unauthorized use of your ID/Password combination, the DocuSign Authentication Code, or the DocuSign eSignature application.
3. I agree to the DocuSign, Inc. Express (DocuSign) Electronic Signature Agreement terms and conditions outlined above.

# City of Moberly City Council Agenda Summary

Agenda Number: #5.  
 Department: Community Development  
 Date: December 5, 2022

**Agenda Item:** An Ordinance Approving A Missouri Highways And Transportation Commission Traffic Engineering Assistance Program Agreement And Authorizing The City Manager To Execute The Agreement On Behalf Of The City Of Moberly.

**Summary:** This is a cost share grant that provides 80% reimbursement not to exceed \$11,944.00 and the estimated cost for the project is \$14,930.00. This is a preliminary engineering study of the roads, traffic needs in and around the Industrial Park and coming up with some costs estimates for the future needed improvements necessary for the ongoing development of the Industrial Park and surrounding properties.

**Recommended**

**Action:** Approve this ordinance.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input checked="" type="checkbox"/> Proposed Ordinance	M__ S__ <b>Jeffrey</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution			
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	<b>Council Member</b>		
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ <b>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M__ S__ <b>Kimmons</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M__ S__ <b>Kyser</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice	M__ S__ <b>Lucas</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

**BILL NO:** \_\_\_\_\_

**ORDINANCE NO:** \_\_\_\_\_

**AN ORDINANCE APPROVING A MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION TRAFFIC ENGINEERING ASSISTANCE PROGRAM AGREEMENT AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT ON BEHALF OF THE CITY OF MOBERLY.**

**Whereas**, the Missouri Highway and Transportation Commission (the “Commission”) has requested the City of Moberly enter into an Traffic Engineering Assistance Program Agreement for the Moberly Industrial Park Roadway and Intersection Extension Study; and

**Whereas**, the Commission has submitted the attached Traffic Engineering Assistance Program Agreement for purposes of memorializing this agreement; and

**Whereas**, city staff recommends approving this Agreement and authorizing the City Manager to execute the agreement on behalf of the city.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MOBERLY, MISSOURI TO WIT:**

**SECTION ONE:** That the city hereby accepts and approves the Missouri Highways and Transportation Commission’s Traffic Engineering Assistance Program Agreement (the “Agreement”) attached hereto.

**SECTION TWO:** That the City Manager, Brian Crane, is hereby authorized to execute the Agreement on behalf of the City of Moberly and to take such other and further action as may be required to effectuate the purpose of this ordinance.

**SECTION THREE:** This ordinance shall be in full force and effect upon passage by the City Council.

**PASSED AND ADOPTED** by the Council of the City of Moberly, Missouri, this 5<sup>th</sup> day of December, 2022.

\_\_\_\_\_  
Presiding Officer at Meeting

**ATTEST:**

\_\_\_\_\_  
Shannon Hance, City Clerk

CCO Form: FS26  
 Approved: 01/15 (MWH)  
 Revised: 03/17 (MWH)  
 Modified:

CFDA Number: CFDA #20.205  
 CFDA Title: Highway Planning and Construction  
 Award name/number: TEAP063  
 Award Year: 2023  
 Federal Agency: Federal Highway Administration, Department of Transportation

**MISSOURI HIGHWAYS AND TRANSPORTATION COMMISSION  
 TRAFFIC ENGINEERING ASSISTANCE PROGRAM AGREEMENT**

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

WITNESSETH:

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

(1) PURPOSE: The United States Congress has authorized, in 23 U.S.C. 402, Planning and Research funds to be used for Traffic Engineering Assistance Program (TEAP) activities. The purpose of this Agreement is to grant the use of such Traffic Engineering Assistance Program funds to the City.

(2) LOCATION: The TEAP funds which are the subject of this Agreement are for the project at the following location:

Industrial Park roadway and intersection extension study in the City of Moberly

The general location of the project is shown on attachment marked "Exhibit A" and incorporated herein by reference.

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

(4) INDEMNIFICATION:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1. Withholding of payments under this Agreement until the City complies; and/or

2. Cancellation, termination or suspension of this Agreement, in whole or in part, or both.

(G) Incorporation of Provisions: The City shall include the provisions of paragraph (7) of this Agreement in every subcontract, including procurements of materials and leases of equipment, unless exempted by the statutes, executive order, administrative rules or instructions issued by the Commission or the United States Department of Transportation. The City will take such action with respect to any subcontract or procurement as the Commission or the United States Department of Transportation may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided that in the event the City becomes involved or is threatened with litigation with a subcontractor or supplier as a result of such direction, the City may request the United States to enter into such litigation to protect the interests of the United States.

(8) ASSIGNMENT: The City shall not assign, transfer or delegate any interest in this Agreement without the prior written consent of the Commission.

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

(10) CANCELLATION: The Commission may cancel this Agreement at any time for a material breach of contractual obligations by providing the City with written notice of cancellation. Should the Commission exercise its right to cancel this Agreement for such reasons, cancellation will become effective upon the date specified in the notice of cancellation sent to the City.

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

(12) FEDERAL-AID PROVISIONS: Because responsibility for the performance of all functions or work contemplated as part of this project is assumed by the City, and the City may elect to construct part of the improvement contemplated by this Agreement with its own forces, a copy of Section II and Section III, as contained in the United States Department of Transportation Form Federal Highway Administration (FHWA) 1273 "Required Contract Provisions, Federal-Aid Construction Contracts," is attached and made a part of this Agreement as Exhibit C. Wherever the term "the contractor" or words of similar import appear in these sections, the term "the City" is to be substituted. The City agrees to abide by and carry out the condition and obligations of "the contractor" as stated in Section II, Equal Opportunity, and Section III, Nonsegregated Facilities, as set

out in Form FHWA 1273.

(13) PLANS: The City shall prepare preliminary and final plans and specifications for the herein improvements. The plans and specifications shall be submitted to the Commission for the Commission's review and approval. The Commission has the discretion to require changes to any plans and specification prior to any approval by the Commission.

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

(A) Any federal funds for project activities shall only be available for reimbursement of eligible costs which have been incurred by City. Any costs incurred by City prior to authorization from FHWA and notification to proceed from the Commission are **not** reimbursable costs. The federal share for this project will be 80 percent not to exceed \$11,944.00. The calculated federal share for seeking federal reimbursement of participating costs for the herein improvements will be determined by dividing the total federal funds applied to the project by the total participating costs. Any costs for the herein improvements which exceed any federal reimbursement or are not eligible for federal reimbursement shall be the sole responsibility of City. The Commission shall not be responsible for any costs associated with the herein improvement unless specifically identified in this Agreement or subsequent written amendments.

(15) PROGRESS PAYMENTS: The City may request progress payments be made for the herein improvements as work progresses but not more than once every two weeks. Progress payments must be submitted monthly. The City shall repay any progress payments which involve ineligible costs.

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

(17) PERMITS: The City shall secure any necessary approvals or permits from any federal or state agency as required for the completion of the herein improvements. If this improvement is on the right of way of the Commission, the City must secure a permit from the Commission prior to the start of any work on the right of way. The permits which

may be required include, but are not limited to, environmental, architectural, historical or cultural requirements of federal or state law or regulation.

(18) INSPECTION OF IMPROVEMENTS AND RECORDS: The City shall assure that representatives of the Commission and FHWA shall have the privilege of inspecting and reviewing the work being done by the City's contractor and subcontractor on the herein project. The City shall also assure that its contractor, and all subcontractors, if any, maintain all books, documents, papers and other evidence pertaining to costs incurred in connection with the TEAP Agreement, and make such materials available at such contractor's office at all reasonable times at no charge during this Agreement period, and for three (3) years from the date of final payment under this Agreement, for inspection by the Commission, FHWA or any authorized representatives of the Federal Government and the State of Missouri, and copies shall be furnished, upon request, to authorized representatives of the Commission, State, FHWA, or other Federal agencies.

(19) CREDIT FOR DONATIONS OF FUNDS, MATERIALS, OR SERVICES: A person may offer to donate funds, materials or services in connection with this project. Any donated funds, or the fair market value of any donated materials or services that are accepted and incorporated into this project shall be credited according to 23 U.S.C. §323.

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

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

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

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

(24) AUDIT REQUIREMENT: If the City expend(s) seven hundred fifty thousand dollars (\$750,000) or more in a year in federal financial assistance it is required

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

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

*[Remainder of Page Intentionally Left Blank]*

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

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

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

MISSOURI HIGHWAYS AND  
TRANSPORTATION COMMISSION

CITY OF MOBERLY

\_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

ATTEST:

ATTEST:

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

By \_\_\_\_\_

Title \_\_\_\_\_

Approved as to Form:

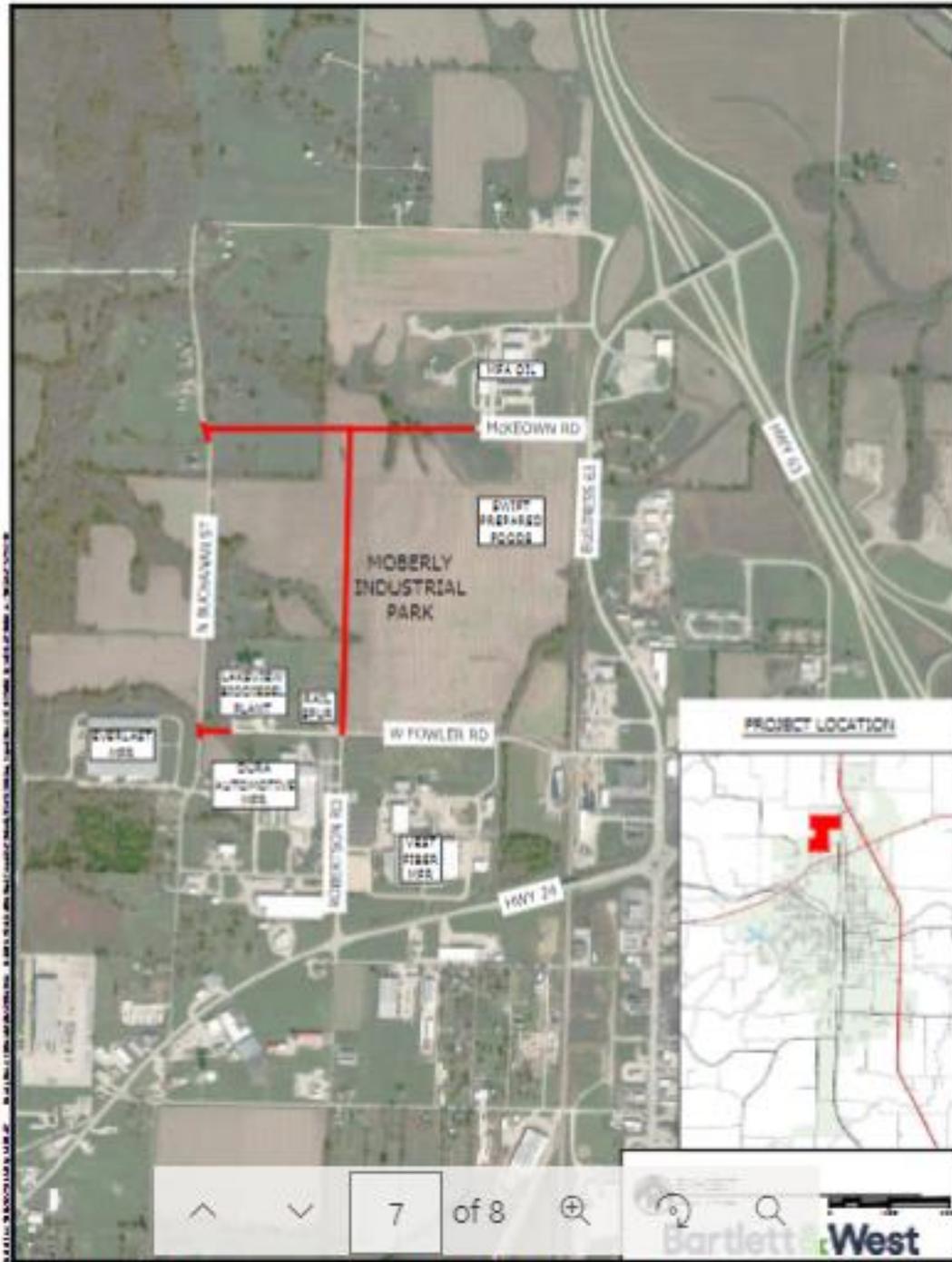
Approved as to Form:

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

\_\_\_\_\_  
Title <sup>Attorney</sup> \_\_\_\_\_

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

### Exhibit A - Location of Project



## Exhibit B – Project Schedule

<b>Task</b>	<b>Date</b>
Execution of Program Agreement	January 27, 2023
Approval of Engineering Services Contract	January 27, 2023
Notice to Proceed	February 3, 2023
Final Report Submittal	May 17, 2023
Final Invoice Submittal	May 31, 2023

**EXHIBIT C**  
**FHWA 1273**

FHWA-1273 -- Revised May 1, 2012

**REQUIRED CONTRACT PROVISIONS**  
**FEDERAL-AID CONSTRUCTION CONTRACTS**

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

**ATTACHMENTS**

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

**I. GENERAL**

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

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

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

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

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

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

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

**II. NONDISCRIMINATION**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**6. Training and Promotion:**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### III. NONSEGREGATED FACILITIES

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

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

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

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

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

#### 1. Minimum wages

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

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

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

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

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

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

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

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

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

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

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

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

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

## 2. Withholding

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

## 3. Payrolls and basic records

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

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

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

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

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

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

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

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

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

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

#### 4. Apprentices and trainees

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**10. Certification of eligibility.**

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

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

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

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

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

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

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

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

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

## VI. SUBLETTING OR ASSIGNING THE CONTRACT

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

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

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

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

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

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

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

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

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

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

## VII. SAFETY: ACCIDENT PREVENTION

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

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

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

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

## VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\* \* \* \* \*

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

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

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

\* \* \* \* \*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Certificate Of Completion**

Envelope Id: C7CD4C27797B4BD5ABC232F378583BD9	Status: Sent
Subject: Complete with DocuSign: 2022-11-74136.pdf	
Source Envelope:	
Document Pages: 22	Signatures: 0
Certificate Pages: 5	Initials: 0
AutoNav: Enabled	Envelope Originator:
Envelopeld Stamping: Enabled	Andrew B. Seiler
Time Zone: (UTC-06:00) Central Time (US & Canada)	1860 Michael Faraday Drive
	Suite 100
	Reston, VA 20190
	Andrew.Seiler@modot.mo.gov
	IP Address: 168.166.80.221

**Record Tracking**

Status: Original	Holder: Andrew B. Seiler	Location: DocuSign
11/30/2022 9:38:04 AM	Andrew.Seiler@modot.mo.gov	

**Signer Events**

**Signature**

**Timestamp**

Randall Thompson cityattorney@cityofmoberly.com Attorney Security Level: Email, Account Authentication (Optional), Access Code		Sent: 11/30/2022 9:47:23 AM Viewed: 12/1/2022 12:36:09 PM
<b>Electronic Record and Signature Disclosure:</b> Accepted: 12/1/2022 12:36:09 PM ID: 935626c1-f2a7-43c4-9077-64a14c04c662		

Brian Crane  
bcrane@cityofmoberly.com  
Security Level: Email, Account Authentication (Optional), Access Code  
**Electronic Record and Signature Disclosure:**  
Accepted: 12/1/2022 8:26:09 AM  
ID: 3ff76132-809d-4eab-a560-2051795178b9

Shannon Hance  
shance@cityofmoberly.com  
Security Level: Email, Account Authentication (Optional), Access Code  
**Electronic Record and Signature Disclosure:**  
Accepted: 11/14/2022 10:06:01 AM  
ID: bc74db4d-9884-47d8-93eb-fe7612374381

Megan L. Waters-Hamblin  
Megan.Waters-Hamblin@modot.mo.gov  
Security Level: Email, Account Authentication (Optional)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Eric E. Schroeter  
Eric.Schroeter@modot.mo.gov  
Security Level: Email, Account Authentication (Optional)  
**Electronic Record and Signature Disclosure:**  
Not Offered via DocuSign

Pamela J. Harlan  
pamela.harlan@modot.mo.gov  
Security Level: Email, Account Authentication (Optional)



**Missouri Highways and Transportation Commission  
DocuSign, Inc. Express Electronic Signature Agreement**

The Missouri Highways and Transportation Commission (hereinafter, Commission), acting by and through the Missouri Department of Transportation (MoDOT) is willing to provide to the Authorized Representative of the Contractor/Vendor/Consultant (Entity) who is duly authorized to act on behalf of said Entity (hereinafter you or I) and accept from you your electronically affixed authorized signature and seal, as required to validate a binding agreement between the Commission and the Entity, on all Commission/MoDOT documents, including but not limited to disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and the like, (hereinafter, Commission Documents) that are processed, generated, and exchanged by and between the Commission and you, acting on behalf of the Entity, electronically through the utilization of the DocuSign, Inc. Express (DocuSign) eSignature Application. In consideration of mutual covenants, you agree as follows:

- 1) You are the person duly authorized and designated by the Entity to receive, access and agree to the terms of this agreement on behalf of the Entity by clicking the Agree button below.
- 2) You have the authority to specifically consent and agree that the Commission, in its discretion, provide all disclosures, agreements, contracts, notices, purchase orders, change orders, modifications, amendments, supplements, correspondence, and all other evidence of the transaction between the Commission and the Entity electronically (hereinafter all such documentation is referred to as electronic record(s)).
- 3) The email address, User ID and password authorized to access the electronic agreement via DocuSign are your own and are not shared with any other person.
- 4) All of the required notices and disclosures will be sent to the email address authorized through DocuSign.
- 5) You are duly authorized to receive electronically through DocuSign, access and act upon all electronic records, to provide all required information and electronically affix your signature and seal, as applicable, on behalf of the Entity named in such Commission Documents via DocuSign,.
- 6) The system through which you are accessing DocuSign and its eSignature Application meets the minimum requirements to access DocuSign, view, receive, retrieve, download, print, store, send and transmit all electronic records and any and all other communications sent to you from the Commission through the DocuSign web site.
- 7) All communications in electronic format from the Commission to you through DocuSign are considered in-writing. You have the ability to download and print any documents processed through DocuSign for 30 calendar days after such documents are first sent, as long as you are an authorized user of the DocuSign system. After such time, you may request copies by contacting the Commission through the Secretary to the Commission at [mhtc@modot.mo.gov](mailto:mhtc@modot.mo.gov) or by telephone at 573-751-2824. You shall print or download for your records a copy of any communication that is important to you to retain.
- 8) You have implemented appropriate security measures to ensure that only you have access through DocuSign to receive, access and electronically affix signatures to electronic records, as applicable, Commission/MoDOT sends to you through DocuSign. It is your sole responsibility to ensure your adequate protection, confidentiality and secrecy of the DocuSign Authentication Code, and any other user ID and/or Password combinations that may be required for you to access the DocuSign eSignature services and any disclosure thereof to any other person or

communication thereof through unsecure medium, such as traditional electronic mail, shall be entirely at your risk. You shall be liable for any unauthorized usage of your ID/Password combination and the DocuSign Authentication Code.

9) You agree and authorize the Commission to respond to and act upon any and all transactions initiated and transmitted by you electronically through DocuSign. Any transaction initiated and transmitted by you to the Commission through DocuSign and its eSignature application shall be deemed to have been authorized by you, and the Commission is entitled to assume that the said transactions are so authorized by you and the Commission shall be protected upon acting thereon.

10) You shall be fully liable to the Commission for every transaction entered into using a valid DocuSign Authentication Code sent to you through certified mail, telephone call or Short Message Service (SMS) text, with or without your knowledge. In no event will the Commission be liable to you for any special, direct, indirect, consequential or incidental loss or damages even if you have advised the Commission/MoDOT of such possibility. The Commission shall not be liable for any misuse, if any, of any data placed on the internet by third parties hacking or accessing the application and hosting server without authorization.

11) The Entity shall take responsibility for all the transactions with the Commission conducted electronically through DocuSign and will abide by the record of the transactions generated by DocuSign or by the Commission/MoDOT through DocuSign. Further such record of transactions shall be conclusive proof and binding for all purposes and may be used as conclusive evidence in any proceedings. All records of the Commission and DocuSign, whether in electronic form, magnetic medium, documents or any other form, with respect to electronic transactions sent or received through use of DocuSign shall be conclusive evidence of such transactions and shall be binding on the Entity.

12) The Commission/MoDOT shall not be liable for any loss or damage whatsoever caused, arising directly or indirectly, in connection with the services and /or this Agreement, including without limitation any: (A) Loss of data; and (B) Interruption or stoppages to your access to DocuSign and its eSignature application and/or processing of electronic transactions due to any operational or technical difficulties/reason beyond our control for any other reason. The Commission, along with its members, employees, agents, executors, successors and assigns shall not be liable for any damages or claims or injuries arising out of or in connection with the use of DocuSign and its eSignature application or its non-use including non-availability or failure of performance, loss or corruption of data, loss of or damage to property (including profit and goodwill), work stoppage, computer failure or malfunctioning or interruption of business, error, omission, deletion, defect, delay in operation or transmission, communication line failure or for any failure to act upon electronic transaction for any cause.

13) You shall keep confidential all information, in whatever form, produced, prepared, observed or received by you to the extent that such information is confidential by law or otherwise required by the Commission.

14) This Agreement and the rights and obligations of the parties hereto shall be governed by, and construed according to, the laws of the State of Missouri. It is agreed by the parties that any action at law, suit in equity, or other judicial proceeding to enforce or construe this Agreement, or regarding its alleged breach, shall be instituted only in the Circuit Court of Cole County, Missouri.

15) The terms of this agreement and any amendments thereafter shall remain in full force and effect for as long as DocuSign is active, or by thirty (30) days written notification by either party

of their intent to cancel this agreement.

**By checking the I Agree button, I confirm that:**

1. I am the person named in the documents to which I will electronically affix my signature; that I am authorized to sign such documents on behalf of the Entity named in the documents; that I will read and know the contents of such electronically signed documents including all exhibits attached thereto, and that the statements made therein are true, and that I will not omit any information needed to make such documents true; and that I will take appropriate security measures to insure that I have sole access to the documents sent to me by the Commission and MoDOT through the email address provided on DocuSign.
2. I and the Entity shall indemnify and save harmless the Commission, its members, employees, officers, successors, assigns, agents and representatives against any and all claims, losses, damages, costs, liabilities and expense actually incurred, suffered or paid by the Commission, its members, employees, officers, successors, assigns, agents and representatives, directly or indirectly, and also against all demands, actions, suits, proceedings made, filed, instituted against the Commission, its members, employees, officers, successors, agents and representatives in connection with, or arising out of, or relating to the Commission accepting and acting or not accepting and not acting for any reason whatsoever pursuant to, in accordance with or relying upon, data received, through DocuSign and its eSignature application you or any unauthorized use of your ID/Password combination, the DocuSign Authentication Code, or the DocuSign eSignature application.
3. I agree to the DocuSign, Inc. Express (DocuSign) Electronic Signature Agreement terms and conditions outlined above.

# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_ #6.

Department: Parks

Date: December 5, 2022

**Agenda Item:** A Resolution Authorizing And Accepting A Fourth Change Order To The Tannehill Park Splashpad Contract With Irvinbilt Constructors, Inc.

**Summary:** Attached is a change order from Irvinbilt relating to simplification of the electrical controls for the bollard (turns splash pad on and off during operational hours) and the automatic valve that allows for recirculation of water returning from the splash pad to the pump house during operational hours and closes outside of operational hours. Water's Edge reviewed the change order to verify reasonableness.

**Recommended**

**Action:** Approve the Resolution.

**Fund Name:** Parks – Capital Improvement

**Account Number:** 115.041.5502

**Available Budget \$:** \$185,132.04

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Correspondence	<input checked="" type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M___ S___ <b>Brubaker</b>	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M___ S___ <b>Kimmons</b>	___	___
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Lucas</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice			
<input type="checkbox"/> Consultant Report	<input checked="" type="checkbox"/> Other: <u>Change Order</u>		Passed	Failed

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

**RESOLUTION NO.** \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND ACCEPTING A FOURTH CHANGE ORDER TO THE TANNEHILL PARK SPLASHPAD CONTRACT WITH IRVINBILT CONSTRUCTORS, INC.**

**WHEREAS**, this Council previously accepted three change orders from Irvinbilt Constructors, Inc. (“Irvinbilt”) for construction of the Tannehill Park Spray Ground; and

**WHEREAS**, a fourth proposed Change Order (attached hereto) has been submitted by Irvinbilt for a decrease in the contract price of \$1,230.00 from a simplification of electrical controls for the bollard and recirculation valve; and

**WHEREAS**, staff recommends that the council authorize acceptance of the Change Order and authorize the City Manager to execute and pay said Order.

**NOW, THEREFORE**, the Moberly, Missouri, City Council hereby accepts and approves the attached Change Order and authorizes the City Manager to execute the Change Order on behalf of the City and to take such further action as may be necessary to carry out the intent of this Resolution.

**RESOLVED** this 5th day of December, 2022, by the Council of the City of Moberly, Missouri.

\_\_\_\_\_  
Presiding Officer at Meeting

**ATTEST:**

\_\_\_\_\_  
Shannon Hance, City Clerk

CHANGE ORDER

#6.

No. 04

DATE OF ISSUANCE November 10, 2022

EFFECTIVE DATE Upon final signature

OWNER City of Moberly  
 CONTRACTOR Irvinbilt Constructors, Inc.  
 Contract: Tannehill Park Spray Ground  
 Project: Tannehill Park Spray Ground  
 OWNER's Contract No. \_\_\_\_\_ ENGINEER's Contract No. 21-520  
 ENGINEER: Water's Edge Aquatic Design, LLC

You are directed to make the following changes in the Contract Documents that decrease the Contract price \$1,230.00. Supporting documents have been previously provided.

- *Omit specified VFD managed control system and replace it with system with more basic control components. Differenced in costs between them allows for a credit to the Owner of \$1,230.00.*

CHANGE IN CONTRACT PRICE:
Original Contract Price: \$ <u>599,700.00</u>
Net Increase from previous Change Orders: \$ <u>21,388.35</u>
Contract Price prior to this Change Order: \$ <u>621,088.35</u>
Net decrease for this Change Order: \$ <u>1,230.00</u>
Contract Price with all approved Change Orders: \$ <u>619,858.35</u>

CHANGE IN CONTRACT TIMES:
Original Contract Times: Substantial Completion: <u>May 27, 2022</u> Ready for final payment: <u>June 26, 2022</u>
Net change from previous Change Orders: Substantial Completion: <u>0 days</u> Ready for final payment: <u>0 days</u>
Contract Times prior to this Change Order: Substantial Completion: <u>May 27, 2022</u> Ready for final payment: <u>June 26, 2022</u>
Net increase this Change Order: Substantial Completion: <u>0 days</u> Ready for final payment: <u>0 days</u>
Contract Times with all approved Change Orders: Substantial Completion: <u>May 27, 2022</u> Ready for final payment: <u>June 26, 2022</u>

RECOMMENDED:

By: Michael J. Fisher  
ENGINEER (Authorized Signature)

Date: November 10, 2022

ACCEPTED:

By: [Signature]  
CONTRACTOR (Authorized Signature)

Date: 11/29/2022

APPROVED:

By: \_\_\_\_\_  
OWNER (Authorized Signature)

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

EJCDC 1910-8-B (1996 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America and the Construction Specifications Institute

# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_ #7.

Department: Parks

Date: December 5, 2022

**Agenda Item:** A Resolution Authorizing And Accepting A Change Order To The Ball Field Improvements Contract At Howard Hills Athletic Complex With Bleigh Construction Company.

**Summary:** The attached change order (\$19,384) was requested by MACC staff and MACC's project engineer per the attached email chain. The expenses relate to the need to increase the dugout height. This will be a pass-through expense as per the partnership agreement, the cost upon completion will initially be paid by the City, but reimbursed by MACC. So the impact on the City budget will be the same on the expense and revenue (reimbursement) line items.

**Recommended**

**Action:** Approve the Resolution.

**Fund Name:** Athletic Complex – Capital Improvement

**Account Number:** 115.048.5502

**Available Budget \$:** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Correspondence	<input checked="" type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M___ S___ <b>Brubaker</b>	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M___ S___ <b>Kimmons</b>	___	___
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Lucas</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice		Passed	Failed
<input type="checkbox"/> Consultant Report	<input checked="" type="checkbox"/> Other: <u>Change Order</u>			

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

**RESOLUTION NO.** \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND ACCEPTING A CHANGE ORDER TO THE BALL FIELD IMPROVEMENTS CONTRACT AT HOWARD HILS ATHLETIC COMPLEX WITH BLEIGH CONSTRUCTION COMPANY.**

**WHEREAS**, on October 3, 2022, this council authorized contracting with Bleigh Construction Company (“Bleigh”) to make ball field improvements at Howard Hills Athletic Complex; and

**WHEREAS**, a Change Order (attached hereto) has been submitted by Bleigh for a increase in the contract price of \$19,384.00 to make changes to the dugout CMU wall height; and

**WHEREAS**, staff recommends that the council authorize acceptance of the Change Order and authorize the City Manager to execute and pay said Order.

**NOW, THEREFORE**, the Moberly, Missouri, City Council hereby accepts and approves the attached Change Order and authorizes the City Manager to execute the Change Order on behalf of the City and to take such further action as may be necessary to carry out the intent of this Resolution.

**RESOLVED** this 5th day of December, 2022, by the Council of the City of Moberly, Missouri.

\_\_\_\_\_  
Presiding Officer at Meeting

**ATTEST:**

\_\_\_\_\_  
Shannon Hance, City Clerk



Bleigh Construction Company  
 PO BOX 957  
 Hannibal, Missouri 63401  
 Phone: (573) 221-2247  
 Fax: 573 221-4331

**Project:** 22013 - Howard Hills New Dugout and Batting Cages  
 101 West Reed Street  
 Moberly, Missouri 65270

## Prime Contract Change Order #001: Dugout CMU Wall Height Adjustment

<b>TO:</b>	City of Moberly 101 West Reed Street Moberly, Missouri 65270	<b>FROM:</b>	Bleigh Construction Company PO BOX 957 Hannibal, Missouri 63401
<b>DATE CREATED:</b>	11/28/2022	<b>CREATED BY:</b>	Nathan Keppner (Bleigh Construction Company)
<b>CONTRACT STATUS:</b>	Pending - In Review	<b>REVISION:</b>	0
<b>DESIGNATED REVIEWER:</b>	Brian Crane (City of Moberly)	<b>REVIEWED BY:</b>	
<b>DUE DATE:</b>		<b>REVIEW DATE:</b>	
<b>INVOICED DATE:</b>		<b>PAID DATE:</b>	
<b>SCHEDULE IMPACT:</b>		<b>EXECUTED:</b>	No
<b>REVISED SUBSTANTIAL COMPLETION DATE:</b>		<b>SIGNED CHANGE ORDER RECEIVED DATE:</b>	
<b>CONTRACT FOR:</b>	1:City Manager	<b>TOTAL AMOUNT:</b>	\$19,384.00

**DESCRIPTION:**

Dugout CMU Wall Height Adjustment

Change in height of the CMU on all four dugouts from 10 courses on the low side to 12 courses tall to accommodate the door frame height. All masonry walls will be extended 2 courses taller.

**ATTACHMENTS:**

**POTENTIAL CHANGE ORDERS IN THIS CHANGE ORDER:**

PCO #	Title	Schedule Impact	Amount
001	Dugout CMU Wall Height Adjustment		\$19,384.00
<b>Total:</b>			<b>\$19,384.00</b>

**CHANGE ORDER LINE ITEMS:**

**PCO # 001: Dugout CMU Wall Height Adjustment**

#	Budget Code	Description	Amount
1	4-220.S CONCRETE MASONRY UNITS .Commitment	Addition of 2 courses of CMU on all dugout walls	\$18,270.00
2	5-120.M STRUCTURAL STEEL .Materials	16" Extension of the steel posts in the front of all dugouts	\$1,114.00
<b>Grand Total:</b>			<b>\$19,384.00</b>

The original (Contract Sum)	\$493,000.00
Net change by previously authorized Change Orders	\$0.00
The contract sum prior to this Change Order was	\$493,000.00
The contract sum would be changed by this Change Order in the amount of	\$19,384.00
The new contract sum including this Change Order will be	\$512,384.00
The contract time will not be changed by this Change Order.	



RE: EXTERNAL EMAIL: RE: Howard Hills Dugout CMU

Eric Ross <ericr@macc.edu>

Tue 11/29/2022 11:57 AM

To: Nathan Keppner <nkeppner@bleigh.com>; Troy Bock <tbock@cityofmoberly.com>; Joseph A. Knochel <jak@klingner.com>; Leslie Keeney <lkeeney@cityofmoberly.com>

Troy – this is fine with me. Thanks

**Eric M. Ross**  
**Director of Plant Operations**



**MACC**  
the college for you.

Moberly Area Community College  
101 College Avenue Moberly, MO 65270  
Phone: 660-263-4100 x11258 Email: EricRoss@macc.edu  
www.macc.edu

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From: Nathan Keppner <nkeppner@bleigh.com>  
Sent: Monday, November 28, 2022 3:14 PM  
To: Troy Bock <tbock@cityofmoberly.com>; Joseph A. Knochel <jak@klingner.com>; Eric Ross <ericr@macc.edu>; Leslie Keeney <lkeeney@cityofmoberly.com>  
Subject: EXTERNAL EMAIL: RE: Howard Hills Dugout CMU

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

All,  
Let me know if the attached Change Order form will be acceptable. Once executed this line item will be added to the pay application. Thanks.

**Nathan Keppner**  
Project Manager/Estimator



P.O. Box 957  
Hannibal, MO 63401-0957  
Phone: 573-221-2247 Ext.224  
Fax: 573-221-4331  
Cell: 573-406-7717  
[www.bleighconstruction.com](http://www.bleighconstruction.com)

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From: Troy Bock <tbock@cityofmoberly.com>  
Sent: Monday, November 28, 2022 8:53 AM  
To: Joseph A. Knochel <jak@klingner.com>; Nathan Keppner <nkeppner@bleigh.com>; Eric Ross <ericr@macc.edu>; Leslie Keeney <lkeeney@cityofmoberly.com>  
Subject: Re: Howard Hills Dugout CMU

We do not have a change order form. Typically contractors provide the completed form to process through Council. Typically, I would get the City Manager's signature so that ordering/scheduling issues can move ahead and Council ratifies so that process does not become a barrier. So as soon as I receive it, I can get Brian to sign.

We will need confirmation via Eric Ross that MACC is comfortable with this additional cost. But the process on our end should be relatively quick.

Troy Bock, MPA, CPRE  
Director  
Moberly Parks and Recreation  
660-269-7613 (p)  
660-263-6770 (f)



Contractors and suppliers interested in doing business with the City of Moberly should register on [Vendor Registry](#). Ask me how.

---

**From:** Joseph A. Knochel <[jak@klingner.com](mailto:jak@klingner.com)>  
**Sent:** Monday, November 28, 2022 7:27 AM  
**To:** Nathan Keppner <[nkeppner@bleigh.com](mailto:nkeppner@bleigh.com)>; Troy Bock <[tbock@cityofmoberly.com](mailto:tbock@cityofmoberly.com)>; Eric Ross <[ericr@macc.edu](mailto:ericr@macc.edu)>  
**Subject:** Re: Howard Hills Dugout CMU

Troy,

The dugout roof heights needs to be increased for the doors on the back of the dugouts. We used a past dugout project as the basis of design which did not have a tall enough back wall for a 7ft door. Below are the cost for the change. A change order will need to be issued to formalize the change. Do you have a change order for that contactor should use?

Eric with MACC is aware of this change.

Thank You,

**Joseph A. Knochel, P.E.**  
Senior Project Manager / MEP Engineer  
Klingner & Associates, P.C.  
616 N. 24th Street | Quincy, IL 62301  
Office: 217.223.3670 | Cell: 573.406.8998  
[www.klingner.com](http://www.klingner.com)



On Fri, Nov 18, 2022 at 2:07 PM Nathan Keppner <[nkeppner@bleigh.com](mailto:nkeppner@bleigh.com)> wrote:

Joe,  
The additional costs to raise all the CMU walls in the four dugouts 16" and increase the length of the posts is as follows:

Cost for 2 more courses of CMU on all walls at all 4 dugouts. \$18,270.00

Cost for all steel roof support posts to be 16" longer. \$1,114.00

Let me know if you need any more information and how to proceed. Thanks.

**Nathan Keppner**

Project Manager/Estimator



P.O. Box 957

Hannibal, MO 63401-0957

Phone: 573-221-2247 Ext.224

Fax: 573-221-4331

Cell: 573-406-7717

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



# City of Moberly City Council Agenda Summary

**Agenda Number:** \_\_\_\_\_ #8.  
**Department:** Community Development  
**Date:** December 5, 2022

**Agenda Item:** A Resolution Authorizing A Contract For A Moberly Industrial Park Roadway And Intersection Extension Study With Bartlett & West, Inc.

**Summary:** This is a preliminary engineering study of the roads, traffic needs in and around the Industrial Park and coming up with some costs estimates for the future needed improvements necessary for the ongoing development of the Industrial Park and surrounding properties. This work will provide guidance for future road improvements and give us the needed information for more precise costs and plans for future grant applications as well.

Staff recommends approval to proceed.

**Recommended**

**Action:** Approve this resolution.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget \$:** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Correspondence	<input checked="" type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M___ S___ <b>Brubaker</b>	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M___ S___ <b>Kimmons</b>	___	___
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Lucas</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice		Passed	Failed
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____			

**BILL NO:** \_\_\_\_\_

**RESOLUTION NO.** \_\_\_\_\_

**A RESOLUTION AUTHORIZING A CONTRACT FOR A MOBERLY INDUSTRIAL PARK ROADWAY AND INTERSECTION EXTENSION STUDY WITH BARTLETT & WEST, INC.**

**WHEREAS**, the city sought grant assistance from the Missouri Department of Transportation through their TEAP grant program to fund a Moberly Industrial Park Roadway and Intersection Extension Study; and

**WHEREAS**, Bartlett & West, Inc., has submitted a Contract, attached, to provide the engineering assistance needed to complete the study for a cost not to exceed \$14,930.00; and

**WHEREAS**, Bartlett & West, Inc., is an approved contractor with the State and city staff recommend acceptance of the Contract.

**NOW, THEREFORE**, the Moberly, Missouri, City Council hereby approves and authorizes the City Manager to execute the Agreement with Bartlett & West, Inc.

**RESOLVED** this 5th day of December, 2022, by the Council of the City of Moberly, Missouri.

\_\_\_\_\_  
**Presiding Officer at Meeting**

**ATTEST:**

\_\_\_\_\_  
**Shannon Hance, City Clerk**

**SPONSOR:** City of Moberly, MO  
**LOCATION:** Moberly Industrial Park, North Fowler Rd, East of Buchanon St  
**PROJECT:** TEAP063  
Moberly Industrial Park Roadway and Intersection Extension Study

*THIS CONTRACT* is between **City of Moberly**, Missouri, hereinafter referred to as the "Local Agency", and **Bartlett & West, Inc., 601 Monroe Street, Suite 201, Jefferson City, MO 65101**, hereinafter referred to as the "Engineer".

*INASMUCH* as funds have been made available by the Federal Highway Administration through its **Traffic Engineering Assistance Program**, coordinated through the Missouri Department of Transportation (MoDOT), the Local Agency intends to **study projected traffic for the Moberly Industrial Park and intersection improvements for McKeown, Fowler, and Robertson Roads**, and requires professional engineering services. The Engineer will provide the Local Agency with professional services hereinafter detailed for the planning, design and construction inspection of the desired improvements and the Local Agency will pay the Engineer as provided in this contract. It is mutually agreed as follows:

**ARTICLE I – SCOPE OF SERVICES**

**A. TEAP STUDY - The Engineer Will:**

**1.1 Conceptual Study & Cost Estimates**

**1.1.1 Prepare concept drawings showing roadway alignments and intersection options (these are expected to be very conceptual in nature and show the potential improvements for the purposes of discussion).**

**1.1.2 Prepare conceptual cost estimates for each intersection.**

**1.2 Traffic Analysis**

**1.2.1 Develop traffic forecasting for new industrial park**

**1.2.2 Review future intersection control needs**

**1.2.3 Review findings with City staff**

**1.3 TEAP Report**

**1.3.1 Compile all information and produce final report**

**1.3.2 Creation of exhibits for report**

**1.3.3 Internal peer review and quality reviews**

**1.4 Project Administration**

**1.4.1 General Correspondence**

**1.4.2 Invoicing**

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

- A. DBE Goal: The following DBE goal has been established for this Agreement. The dollar value of services and related equipment, supplies, and materials used in furtherance thereof which is credited toward this goal will be based on the amount actually paid to DBE firms. The goal for the percentage of services to be awarded to DBE firms is 0% of the total Agreement dollar value.
- B. DBE Participation Obtained by Engineer: The Engineer has obtained DBE participation, and agrees to use DBE firms to complete, 0% of the total services to be performed under this Agreement, by dollar value. The DBE firms which the Engineer shall use, and the type and dollar value of the services each DBE will perform, is as follows:

DBE FIRM NAME, STREET AND COMPLETE MAILING ADDRESS	TYPE OF DBE <u>SERVICE</u>	TOTAL \$ VALUE OF THE DBE <u>SUBCONTRACT</u>	CONTRACT \$ AMOUNT TO APPLY TO TOTAL <u>DBE GOAL</u>	PERCENTAGE OF SUBCONTRACT DOLLAR VALUE APPLICABLE TO <u>TOTAL GOAL</u>
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N/A

**ARTICLE III-ADDITIONAL SERVICES**

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

**ARTICLE IV - RESPONSIBILITIES OF LOCAL AGENCY**

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

- A. make available all information pertaining to the project which may be in the possession of the Local Agency;
- B. provide the Engineer with the Local Agency's requirements for the project;
- C. make provisions for the Engineer to enter upon property at the project site for the performance of his duties;
- D. examine all studies and layouts developed by the Engineer, obtain reviews by MoDOT, and render decisions thereon in a prompt manner so as not to delay the Engineer;

- E. designate a Local Agency's employee to act as Local Agency's Person in Responsible Charge under this contract, such person shall have authority to transmit instructions, interpret the Local Agency's policies and render decisions with respect to matters covered by this agreement (see EPG 136.3);
- F. perform appraisals and appraisal review, negotiate with property owners and otherwise provide all services in connection with acquiring all right-of-way needed to construct this project.

**ARTICLE V - PERIOD OF SERVICE**

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

- A. **January 9, 2023 (On or Before) Notice to Proceed from Local Agency**
- B. **April 28, 2023 Final Traffic Study Report Due to MoDOT**
- C. **May 15, 2023 Final Invoice Due to MoDOT**

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

**ARTICLE VI – STANDARDS**

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

**ARTICLE VII - COMPENSATION**

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

- A. For design services, including work through the construction contract award stage, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of **\$ 1,591.90**, with a ceiling established for said design services in the amount of **\$ 14,930.00**, which amount shall not be exceeded.

- B. ~~For construction inspection services, the Local Agency will pay the Engineer the actual costs incurred plus a predetermined fixed fee of \$ \_\_\_\_\_, with a ceiling \_\_\_\_\_ established for said inspection services in the amount of \$ \_\_\_\_\_, which \_\_\_\_\_ amount shall not be exceeded.~~
- C. The compensation outlined above has been derived from estimates of cost which are detailed in Attachment B. Any major changes in work, extra work, exceeding of the contract ceiling, or change in the predetermined fixed fee will require a supplement to this contract, as covered in Article III - ADDITIONAL SERVICES.
- D. Actual costs in Sections A and B above are defined as:
  - 1. Actual payroll salaries paid to employees for time that they are productively engaged in work covered by this contract, plus
  - 2. An amount calculated at **42.97%** of actual salaries in Item 1 above for payroll additives, including payroll taxes, holiday and vacation pay, sick leave pay, insurance benefits, retirement and incentive pay, plus
  - 3. An amount calculated at **144.73%** of actual salaries in Item 1 above for general administrative overhead, based on the Engineer's system for allocating indirect costs in accordance with sound accounting principles and business practice, plus
  - 4. Other costs directly attributable to the project but not included in the above overhead, such as vehicle mileage, meals and lodging, printing, surveying expendables, and computer time, plus
  - 5. Project costs incurred by others on a subcontract basis, said costs to be passed through the Engineer on the basis of reasonable and actual cost as invoiced by the subcontractors.
- E. The rates shown for additives and overhead in Sections VII. D.2 and VII. D.3 above are the established Engineer's overhead rate accepted at the time of contract execution and shall be utilized throughout the life of this contract for billing purposes.
- F. The payment of costs under this contract will be limited to costs which are allowable under 23 CFR 172 and 48 CFR 31.
- G. **METHOD OF PAYMENT** - Partial payments for work satisfactorily completed will be made to the Engineer upon receipt of itemized invoices by the Local Agency. Invoices will be submitted no more frequently than once every two weeks and must be submitted monthly for invoices greater than \$10,000. A pro-rated portion of the fixed fee will be paid with each invoice. Upon receipt of the invoice and progress report, the Local Agency will, as soon as practical, but not later than 45 days from receipt, pay the Engineer for the services rendered, including the proportion of the fixed fee earned as reflected by the estimate of the portion of the services completed as shown by the progress report, less partial payments previously made. A late payment charge of one- and one-half percent (1.5%) per month shall be assessed for

those invoiced amount not paid, through no fault of the Engineer, within 45 days after the Local Agency's receipt of the Engineer's invoice. The Local Agency will not be liable for the late payment charge on any invoice which requests payment for costs which exceed the proportion of the maximum amount payable earned as reflected by the estimate of the portion of the services completed, as shown by the progress report. The payment, other than the fixed fee, will be subject to final audit of actual expenses during the period of the Agreement.

H. **PROPERTY ACCOUNTABILITY** - If it becomes necessary to acquire any specialized equipment for the performance of this contract, appropriate credit will be given for any residual value of said equipment after completion of usage of the equipment.

**ARTICLE VIII - COVENANT AGAINST CONTINGENT FEES**

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

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

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

<b>Sub-Consultant Name</b>	<b>Address</b>	<b>Services</b>
----------------------------	----------------	-----------------

N/A

**ARTICLE X - PROFESSIONAL ENDORSEMENT**

All plans, specifications and other documents shall be endorsed by the Engineer and shall reflect the name and seal of the Professional Engineer endorsing the work. By signing and sealing the PS&E submittals the Engineer of Record will be representing to MoDOT that the design is meeting the intent of the federal aid programs.

**ARTICLE XI - RETENTION OF RECORDS**

The Engineer shall maintain all records, survey notes, design documents, cost and accounting records, construction records and other records pertaining to this contract and to the project covered by this contract, for a period of not less than three years following final payment by FHWA. Said records

shall be made available for inspection by authorized representatives of the Local Agency, MoDOT or the federal government during regular working hours at the Engineer's place of business.

**ARTICLE XII - OWNERSHIP OF DOCUMENTS**

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

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

- A. The Local Agency may, without being in breach hereof, suspend or terminate the Engineer's services under this Agreement, or any part of them, for cause or for the convenience of the Local Agency, upon giving to the Engineer at least fifteen (15) days' prior written notice of the effective date thereof. The Engineer shall not accelerate performance of services during the fifteen (15) day period without the express written request of the Local Agency.
- B. Should the Agreement be suspended or terminated for the convenience of the Local Agency, the Local Agency will pay to the Engineer its costs as set forth in Attachment B including actual hours expended prior to such suspension or termination and direct costs as defined in this Agreement for services performed by the Engineer, a proportional amount of the fixed fee based upon an estimated percentage of Agreement completion, plus reasonable costs incurred by the Engineer in suspending or terminating the services. The payment will make no other allowances for damages or anticipated fees or profits. In the event of a suspension of the services, the Engineer's compensation and schedule for performance of services hereunder shall be equitably adjusted upon resumption of performance of the services.
- C. The Engineer shall remain liable to the Local Agency for any claims or damages occasioned by any failure, default, or negligent errors and/or omission in carrying out the provisions of this Agreement during its life, including those giving rise to a termination for non-performance or breach by Engineer. This liability shall survive and shall not be waived, or estopped by final payment under this Agreement.
- D. The Engineer shall not be liable for any errors or omissions contained in deliverables which are incomplete as a result of a suspension or termination where the Engineer is deprived of the opportunity to complete the Engineer's services.
- E. Upon the occurrence of any of the following events, the Engineer may suspend performance hereunder by giving the Local Agency 30 days advance written notice and may continue such suspension until the condition is satisfactorily remedied by the Local Agency. In the event the condition is not remedied within 120 days of the Engineer's original notice, the Engineer may terminate this agreement.

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

**ARTICLE XIV - DECISIONS UNDER THIS CONTRACT**

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

**ARTICLE XV - SUCCESSORS AND ASSIGNS**

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

**ARTICLE XVI - COMPLIANCE WITH LAWS**

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

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

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

**ARTICLE XVIII - NONDISCRIMINATION**

The Engineer, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color or national origin in the selection and retention of subcontractors. The Engineer will comply with state and federal related to nondiscrimination, including but not limited to Title VI and Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d, 2000e), as well as with any applicable titles of the Americans with Disabilities Act (42 U.S.C. 12101, et seq.). More specifically, the Engineer will comply with the regulations of the Department of Transportation relative to nondiscrimination in federally assisted programs of the Department of Transportation, as contained in 49 CFR 21 through Appendix H and 23 CFR 710.405 which are herein incorporated by reference and made a part of this contract. In all solicitations either by competitive bidding or negotiation made by the Engineer for work to be performed under a subcontract, including procurements of materials or equipment, each potential

subcontractor or supplier shall be notified by the Engineer's obligations under this contract and the regulations relative to non-discrimination on the ground of color, race or national origin.

**ARTICLE XIX – LOBBY CERTIFICATION**

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

**ARTICLE XX – INSURANCE**

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

America. Each insurance policy must be issued by a company authorized to issue such insurance in the State of Missouri.

**ARTICLE XXI - ATTACHMENTS**

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

Attachment A – Scope of Service

Attachment B - Estimate of Cost

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

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

Attachment E – DBE Contract Provisions

Attachment F – Fig. 136.4.15 Conflict of Interest Disclosure Form

Executed by the Engineer this \_\_\_\_ day of \_\_\_\_\_, 2023.

Executed by the County/City this \_\_\_ day of \_\_\_\_\_, 2023.

**FOR:** THE CITY OF MOBERLY, MISSOURI

**BY:** \_\_\_\_\_

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

City Clerk

**FOR:** BARTLETT & WEST, INC.

**BY:**   
Sr. Project Manager

**ATTEST:**   
Contract Administrator

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

\_\_\_\_\_  
CITY CLERK

**ATTACHMENT A**

**See ARTICLE I – SCOPE OF SERVICES**

**ATTACHMENT B**

**Estimate of Cost – Hourly Estimate**

**Estimate of Cost – Hourly Summary and Total Fee**

## ATTACHMENT C

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

---

#### INSTRUCTIONS FOR CERTIFICATION

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

the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to check the Nonprocurement List at the Excluded Parties List System. <https://www.epls.gov/epls/search.do?page=A&status=current&agency=69#A>.

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

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

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

**ATTACHMENT D**

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

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**INSTRUCTIONS FOR CERTIFICATION**

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

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

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

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

**ATTACHMENT E**  
**Disadvantage Business Enterprise Contract Provisions**

1. Policy: It is the policy of the U.S. Department of Transportation and the Local Agency that businesses owned by socially and economically disadvantaged individuals (DBE's) as defined in 49 C.F.R. Part 26 have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds. Thus, the requirements of 49 C.F.R. Part 26 and Section 1101(b) of the Transportation Equity Act for the 21st Century (TEA-21) apply to this Agreement.
  
2. Obligation of the Engineer to DBE's: The Engineer agrees to assure that DBEs have the maximum opportunity to participate in the performance of this Agreement and any subconsultant agreement financed in whole or in part with federal funds. In this regard the Engineer shall take all necessary and reasonable steps to assure that DBEs have the maximum opportunity to compete for and perform services. The Engineer shall not discriminate on the basis of race, color, religion, creed, disability, sex, age, or national origin in the performance of this Agreement or in the award of any subsequent subconsultant agreement.
  
3. Geographic Area for Solicitation of DBEs: The Engineer shall seek DBEs in the same geographic area in which the solicitation for other subconsultants is made. If the Engineer cannot meet the DBE goal using DBEs from that geographic area, the Engineer shall, as a part of the effort to meet the goal, expand the search to a reasonably wider geographic area.
  
4. Determination of Participation Toward Meeting the DBE Goal: DBE participation shall be counted toward meeting the goal as follows:
  - A. Once a firm is determined to be a certified DBE, the total dollar value of the subconsultant agreement awarded to that DBE is counted toward the DBE goal set forth above.
  - B. The Engineer may count toward the DBE goal a portion of the total dollar value of a subconsultant agreement with a joint venture eligible under the DBE standards, equal to the percentage of the ownership and control of the DBE partner in the joint venture.
  - C. The Engineer may count toward the DBE goal expenditures to DBEs who perform a commercially useful function in the completion of services required in this Agreement. A DBE is considered to perform a commercially useful function when the DBE is responsible for the execution of a distinct element of the services specified in the Agreement and the carrying out of those responsibilities by actually performing, managing and supervising the services involved and providing the desired product.
  - D. A Engineer may count toward the DBE goal its expenditures to DBE firms consisting of fees or commissions charged for providing a bona fide service, such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for the performance of this Agreement, provided that the fee or commission is determined by MoDOT's External Civil Rights Division to be reasonable and not excessive as compared with fees customarily allowed for similar services.
  - E. The Engineer is encouraged to use the services of banks owned and controlled by socially and economically disadvantaged individuals.
  
5. Replacement of DBE Subconsultants: The Engineer shall make good faith efforts to replace a DBE Subconsultant, who is unable to perform satisfactorily, with another DBE Subconsultant. Replacement firms must be approved by MoDOT's External Civil Rights Division.
  
6. Verification of DBE Participation: Prior to final payment by the Local Agency, the Engineer shall file a list with the Local Agency showing the DBEs used and the services performed. The list shall show the actual dollar amount paid to each DBE that is applicable to the percentage participation established in this Agreement. Failure on the part of the Engineer to achieve the DBE participation specified in this Agreement may result in

sanctions being imposed on the Commission for noncompliance with 49 C.F.R. Part 26 and/or Section 1101(b) of TEA-21. If the total DBE participation is less than the goal amount stated by the MoDOT's External Civil Rights Division, liquidated damages may be assessed to the Engineer.

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

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

- A. Attended a meeting scheduled by the Department to inform DBEs of contracting or consulting opportunities.
- B. Advertised in general circulation trade association and socially and economically disadvantaged business directed media concerning DBE subcontracting opportunities.
- C. Provided written notices to a reasonable number of specific DBEs that their interest in a subconsultant agreement is solicited in sufficient time to allow the DBEs to participate effectively.
- D. Followed up on initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested in subconsulting work for this Agreement.
- E. Selected portions of the services to be performed by DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down subconsultant agreements into economically feasible units to facilitate DBE participation).
- F. Provided interested DBEs with adequate information about plans, specifications and requirements of this Agreement.
- G. Negotiated in good faith with interested DBEs, and not rejecting DBEs as unqualified without sound reasons, based on a thorough investigation of their capabilities.
- H. Made efforts to assist interested DBEs in obtaining any bonding, lines of credit or insurance required by the Commission or by the Engineer.
- I. Made effective use of the services of available disadvantaged business organizations, minority contractors' groups, disadvantaged business assistance offices, and other organizations that provide assistance in the recruitment and placement of DBE firms.

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

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

**Firm Name (Consultant): Bartlett & West, Inc.**

**Project Owner (LPA): City of Mexico, MO**

**Project Name: Clark Street Corridor Study**

**Project Number: TEAP063**

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

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

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

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

Real conflicts of interest or the potential for conflicts of interest

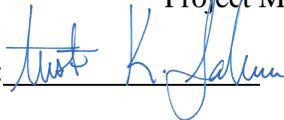
If a real or potential conflict has been identified, describe on an attached sheet the nature of the conflict, and provide a detailed description of Consultant’s proposed mitigation measures (if possible). Complete and sign this form and send it, along with all attachments, to the appropriate MoDOT District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

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

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

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

Consultant  
Printed Name: Austin Johnson  
Project Manager

Signature: 

Date: 11 - 23 - 2023

# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_  
 Department: City Clerk  
 Date: December 5, 2022

#9.

**Agenda Item:** A Resolution Appropriating Money Out Of The Treasury Of The City Of Moberly, Missouri.

**Summary:** Through the course of regular City operations, debts to various vendors and agencies are incurred. The majority are charged to the City through invoices, other debts are incurred through contractual arrangements for services, financing of purchases, and long-term debt. This resolution approves payment of two types of items; (1) those with due dates within the next two weeks, and (2) for payments that have been made for items with due dates that occurred since the previous appropriation.

**Recommended Action:** Approve this resolution.

**Fund Name:** N/A

**Account Number:** N/A

**Available Budget :** N/A

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Correspondence	<input checked="" type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M___ S___ <b>Brubaker</b>	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M___ S___ <b>Kimmons</b>	___	___
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Lucas</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice			
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

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

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION APPROPRIATING MONEY OUT OF THE TREASURY OF THE CITY OF MOBERLY, MISSOURI IN THE AMOUNT OF \$319,605.57.**

**WHEREAS**, the funds are to be disbursed as follows.

- SECTION 1: There is hereby appropriated out of the **General Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$54,330.31.
- SECTION 2: There is hereby appropriated out of the **Payroll Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$46,095.91.
- SECTION 3: There is hereby appropriated out of the **Solid Waste Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$33.14.
- SECTION 4: There is hereby appropriated out of the **Heritage Hills Golf Course Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$19,522.47.
- SECTION 5: There is hereby appropriated out of the **Parks and Recreation Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$10,657.51.
- SECTION 6: There is hereby appropriated out of the **Airport Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$1,763.57.
- SECTION 7: There is hereby appropriated out of the **Perpetual Care Cemetery Sales Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$27.00.
- SECTION 8: There is hereby appropriated out of the **Utilities OP & Maintenance Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$31,490.88.
- SECTION 9: There is hereby appropriated out of the **Capital Improvement Trust Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$3,986.36.
- SECTION 10: There is hereby appropriated out of the **2004B SRF Bonds Debt Service Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$38,403.29.
- SECTION 11: There is hereby appropriated out of the **2006A SRF Bonds Debt Service Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$27,980.22.
- SECTION 12: There is hereby appropriated out of the **2004C Bonds Debt Service Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$26,458.37.
- SECTION 13: There is hereby appropriated out of the **2008A Bonds Debt Service Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$38,579.22.
- SECTION 14: There is hereby appropriated out of the **Emergency Telephone Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$1,764.15.
- SECTION 15: There is hereby appropriated out of the **Transportation Trust Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$5,647.00.
- SECTION 16: There is hereby appropriated out of the **Street Improvement Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$12,760.67.
- SECTION 17: There is hereby appropriated out of the **Health Trust Fund** of the Treasury of the City of Moberly, Missouri to pay expenses due December 5, 2022, in the amount of \$105.50.

**NOW, THEREFORE**, the Moberly City Council authorizes these expenditures.

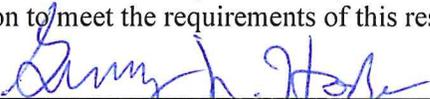
**RESOLVED** this 5th day of December 2022, by the Council of the City of Moberly, Missouri.

\_\_\_\_\_  
Presiding Officer at Meeting

**ATTEST:**

\_\_\_\_\_  
Shannon Hance, MRCC, City Clerk

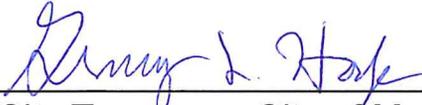
I hereby certify that there is sufficient money standing to the credit of the City of Moberly, Missouri, unappropriated in the several funds covered by this resolution to meet the requirements of this resolution.

  
\_\_\_\_\_  
City Treasurer, City of Moberly, Missouri

**EXPENSES PAID NOVEMBER 22, 2022 - DECEMBER 5, 2022 FOR THE FOLLOWING FUNDS ARE TO BE INCLUDED WITH THE DECEMBER 5, 2022 APPROPRIATION RESOLUTION TOTAL.**

General Fund	\$	54,330.31
Payroll Fund	\$	46,095.91
Solid Waste Fund	\$	33.14
Heritage Hills Golf Course Fund	\$	19,522.47
Parks and Recreation Fund	\$	10,657.51
Airport Fund	\$	1,763.57
Perpetual Care Cemetery Sales Fund	\$	27.00
Utilities OP & Maintenance Fund	\$	31,490.88
Capital Improvement Trust Fund	\$	3,986.36
2004B SRF Bonds Debt Service Fund	\$	38,403.29
2006A SRF Bonds Debt Service Fund	\$	27,980.22
2004C Bonds Debt Service Fund	\$	26,458.37
2008A Bonds Debt Service Fund	\$	38,579.22
Emergency Telephone Fund	\$	1,764.15
Transportation Trust Fund	\$	5,647.00
Street Improvement Fund	\$	12,760.67
Health Trust Fund	\$	105.50
<b>Total</b>	<b>\$</b>	<b>319,605.57</b>

I hereby certify that there is sufficient money standing to the credit of the City of Moberly, Missouri, unappropriated to cover the above funds.

  
\_\_\_\_\_  
City Treasurer, City of Moberly, Missouri

12/2/2022  
\_\_\_\_\_  
Date

Report Criteria:  
Report type: Summary  
Check.Type = {<>} "Adjustment"

Check Number	Check Issue Date	Vendor Number	Payee	Amount
91866	12/05/2022	93985	AERZEN USA CORP	1,172.45
91867	12/05/2022	10641	ALLEN KEAGAN	128.00
91868	12/05/2022	10027	AMAZON CAPITAL SERVICES	79.05
91869	12/05/2022	10028	AMEREN MISSOURI	46.47
91870	12/05/2022	94062	AMERICAN WATER WORKS ASSOC	79.00
91871	12/05/2022	10044	AT&T 5001	1,694.15
91872	12/05/2022	10066	BARTLETT & WEST	310.50
91873	12/05/2022	10069	BENN, RYAN D	270.00
91874	12/05/2022	94443	BONUCHI, BECKY	190.15
91875	12/05/2022	94468	BOTKINS TRUCKING LLC	825.47
91876	12/05/2022	10084	BOUND TREE MEDICAL	1,496.83
91877	12/05/2022	10085	BRATCHERS MARKET	193.53
91878	12/05/2022	10087	BRENDLINGER ENTERPRISES INC	8,030.83
91879	12/05/2022	10095	BUTLER SUPPLY INC	191.34
91880	12/05/2022	10105	CASON BUILDING MAINTENANCE INC	2,463.70
91881	12/05/2022	10111	CHAPPYS LLC	150.00
91882	12/05/2022	10112	CHEMCO INDUSTRIES INC	395.82
91883	12/05/2022	94879	CITY OF COLUMBIA	743.60
91884	12/05/2022	10116	CIVICPLUS	4,830.00
91885	12/05/2022	10125	CONTROLLED AIRE LLC	197.50
91886	12/05/2022	10137	CUMMINS SALES & SERVICES	1,341.17
91887	12/05/2022	10141	DA-COM	240.87
91888	12/05/2022	10155	DMC CONCRETE CONSTRUCTION	20,102.00
91889	12/05/2022	95388	DON'S FAMILY STYLE BUFFET	1,950.00
91890	12/05/2022	95482	E S C I INC	2,998.00
91891	12/05/2022	95563	ENGINE COMPANY LEATHER LC	56.95
91892	12/05/2022	10176	FASTENAL COMPANY	210.99
91893	12/05/2022	10642	FERRELL SHARON	39.38
91894	12/05/2022	10186	FOUR ACRES NURSERY INC	600.00
91895	12/05/2022	10197	GALLS LLC	283.84
91896	12/05/2022	10210	GULF STATES DISTRIBUTORS	1,410.00
91897	12/05/2022	10248	INLAND TRUCK PARTS	135.03
91898	12/05/2022	10601	JACKSON BROTHERS OF THE NORTH	242.46
91899	12/05/2022	10265	KNAPHEIDE TRUCK EQUIPMENT CENTER	148.49
91900	12/05/2022	10266	KNOT AS IT SEEMS FLOWERS AND GIFTS LLC	50.00
91901	12/05/2022	10275	LEON UNIFORM COMPANY	304.96
91902	12/05/2022	10296	MARTIN EQUIPMENT	11,320.00
91903	12/05/2022	10317	MFA PROPANE	1,007.60
91904	12/05/2022	10330	MISSOURI DEPARTMENT OF CORRECTIONS	787.50
91905	12/05/2022	10364	MOBERLY READY MIX C/O WARREN COUNTY CON	4,242.00
91906	12/05/2022	10643	MONNIG INDUSTRIES INC	495.38
91907	12/05/2022	10375	NEMO ELECTRIC CO INC	2,106.00
91908	12/05/2022	10377	NEWMAN SIGNS INC	840.67
91909	12/05/2022	10383	ONMEDIA-COLUMBIA	150.00
91910	12/05/2022	10110	PLZ CORP	1,857.64
91911	12/05/2022	98155	POEPPING STONE BACH & ASSOCIATES INC	3,986.36
91912	12/05/2022	10410	PRO PUMPING & HYDROJETTING LLC	1,408.00
91913	12/05/2022	10418	RANDOLPH AREA YMCA	726.00
91914	12/05/2022	10424	RANDOLPH COUNTY RECORDER	27.00
91915	12/05/2022	10485	STAPLES	1,145.94
91916	12/05/2022	99259	SYN-TECH SYSTEMS INC	1,305.00
91917	12/05/2022	99350	THE SPAY NEUTER PROJECT	65.00
91918	12/05/2022	10501	THOMAS HILL PUBLIC WATER SUPPLY	68.28

Check Number	Check Issue Date	Vendor Number	Payee	Amount	
91919	12/05/2022	10520	UNITED FIRST AID & SAFETY LLC	81.71	
91920	12/05/2022	10525	UNITED WAY	1,942.38	
91921	12/05/2022	10527	US CELLULAR	387.92	
91922	12/05/2022	10529	USA BLUE BOOK	256.72	
91923	12/05/2022	10533	VALIC	760.00	
91924	12/05/2022	10566	WILLIS, MARK	6,820.00	
91925	12/05/2022	10567	WINTER EQUIPMENT COMPANY INC	1,507.53	
91926	12/05/2022	10569	WIRELESS USA	557.35	
91927	12/05/2022	10573	WOOGEDY LLC	7.00	
91928	12/05/2022	10644	WSKF ARCHITECTS	4,680.00	
91929	12/05/2022	10580	ZURCHER TIRE INC	166.00	
20221128	11/28/2022	10517	UMB BANK	131,421.10	M
20221128	11/28/2022	10100	CAPITAL RX INC	105.50	M
20221129	11/29/2022	10028	AMEREN MISSOURI	36,864.56	M
20221203	12/05/2022	10546	WASTE MANAGEMENT SOLUTIONS	108.04	M
20221205	12/05/2022	10336	MISSOURI LAGERS	43,393.53	M
20221206	12/05/2022	10546	WASTE MANAGEMENT SOLUTIONS	5,405.33	M
Grand Totals:				319,605.57	

Summary by General Ledger Account Number

GL Account	Debit	Credit	Proof
100.000.1601	1,857.64	.00	1,857.64
100.000.1602	194.60	.00	194.60
100.000.2000	52.95	54,383.26-	54,330.31-
100.000.2302	15.00	.00	15.00
100.000.2305	65.00	.00	65.00
100.000.2306	105.90	52.95-	52.95
100.001.5200	16.48	.00	16.48
100.001.5203	5.99	.00	5.99
100.005.5200	35.31	.00	35.31
100.005.5406	310.50	.00	310.50
100.005.5418	3,430.37	.00	3,430.37
100.006.5200	11.23	.00	11.23
100.006.5218	2,140.15	.00	2,140.15
100.007.5107	341.92	.00	341.92
100.007.5200	750.03	.00	750.03
100.007.5208	351.79	.00	351.79
100.007.5209	902.03	.00	902.03
100.007.5220	1,410.00	.00	1,410.00
100.007.5300	197.50	.00	197.50
100.007.5307	467.85	.00	467.85
100.007.5403	328.94	.00	328.94
100.007.5503	240.87	.00	240.87
100.007.5807	39.38	.00	39.38
100.008.5107	242.28	.00	242.28
100.008.5203	8.60	.00	8.60
100.008.5209	562.42	.00	562.42
100.008.5211	58.98	.00	58.98
100.008.5217	1,496.83	.00	1,496.83
100.008.5307	89.50	.00	89.50
100.008.5309	150.00	.00	150.00
100.008.5402	128.00	.00	128.00

GL Account	Debit	Credit	Proof
100.008.5404	726.00	.00	726.00
100.008.5406	4,680.00	.00	4,680.00
100.008.5502	2,998.00	.00	2,998.00
100.009.5200	242.46	.00	242.46
100.009.5300	136.62	.00	136.62
100.009.5309	1,642.56	.00	1,642.56
100.009.5311	643.87	.00	643.87
100.009.5406	393.75	.00	393.75
100.009.5813	2,474.96	.00	2,474.96
100.010.5209	268.19	.00	268.19
100.010.5406	393.75	.00	393.75
100.011.5204	162.37	.00	162.37
100.011.5209	15.03	.00	15.03
100.011.5300	2,710.00	.00	2,710.00
100.011.5406	2,288.70	.00	2,288.70
100.012.5209	51.26	.00	51.26
100.013.5209	200.23	.00	200.23
100.013.5210	12,970.85	.00	12,970.85
100.013.5403	4,830.00	.00	4,830.00
100.013.5806	174.99	.00	174.99
100.013.5813	108.04	.00	108.04
100.019.5209	14.34	.00	14.34
100.020.5209	127.20	.00	127.20
100.020.5406	175.00	.00	175.00
105.000.2000	.00	46,095.91-	46,095.91-
105.000.2603	2,702.38	.00	2,702.38
105.000.5102	43,393.53	.00	43,393.53
110.000.2000	.00	33.14-	33.14-
110.033.5209	33.14	.00	33.14
114.000.2000	.00	19,522.47-	19,522.47-
114.000.5502	19,522.47	.00	19,522.47
115.000.2000	.00	10,657.51-	10,657.51-
115.040.5209	783.20	.00	783.20
115.040.5311	1,196.33	.00	1,196.33
115.041.5200	226.59	.00	226.59
115.041.5206	7.00	.00	7.00
115.041.5209	1,808.35	.00	1,808.35
115.041.5311	1,026.73	.00	1,026.73
115.042.5209	1,016.15	.00	1,016.15
115.044.5209	127.20	.00	127.20
115.044.5212	150.00	.00	150.00
115.048.5209	885.19	.00	885.19
115.048.5300	3,430.77	.00	3,430.77
120.000.2000	.00	1,763.57-	1,763.57-
120.000.5209	378.57	.00	378.57
120.000.5311	1,385.00	.00	1,385.00
125.000.2000	.00	27.00-	27.00-
125.000.4814	27.00	.00	27.00
301.000.2000	36.50	31,527.38-	31,490.88-
301.110.5200	26.59	.00	26.59
301.110.5201	107.70	.00	107.70
301.110.5807	18.54	.00	18.54
301.112.5206	33.46	.00	33.46
301.112.5209	260.69	.00	260.69
301.112.5309	166.00	.00	166.00
301.112.5314	6,820.00	.00	6,820.00
301.113.5200	395.82	.00	395.82

GL Account	Debit	Credit	Proof
301.113.5209	3,934.18	.00	3,934.18
301.113.5216	212.82	.00	212.82
301.113.5217	81.71	.00	81.71
301.113.5300	1,127.94	.00	1,127.94
301.113.5311	483.23	.00	483.23
301.113.5404	79.00	.00	79.00
301.113.5813	743.60	.00	743.60
301.114.5200	35.35	.00	35.35
301.114.5209	13,272.83	.00	13,272.83
301.114.5216	80.40	36.50-	43.90
301.114.5303	630.00	.00	630.00
301.114.5304	1,750.00	.00	1,750.00
301.114.5310	1,172.45	.00	1,172.45
301.115.5209	95.07	.00	95.07
304.000.2000	.00	3,986.36-	3,986.36-
304.000.5408	3,986.36	.00	3,986.36
377.000.2000	.00	38,403.29-	38,403.29-
377.000.5500	38,403.29	.00	38,403.29
378.000.2000	.00	27,980.22-	27,980.22-
378.000.5500	27,980.22	.00	27,980.22
379.000.2000	.00	26,458.37-	26,458.37-
379.000.5500	26,458.37	.00	26,458.37
380.000.2000	.00	38,579.22-	38,579.22-
380.000.5500	38,579.22	.00	38,579.22
400.000.2000	.00	1,764.15-	1,764.15-
400.000.5209	70.00	.00	70.00
400.000.5211	1,694.15	.00	1,694.15
600.000.2000	.00	5,647.00-	5,647.00-
600.143.5502	5,647.00	.00	5,647.00
601.000.2000	.00	12,760.67-	12,760.67-
601.000.5302	1,440.67	.00	1,440.67
601.000.5502	11,320.00	.00	11,320.00
995.000.2000	.00	105.50-	105.50-
995.000.5406	105.50	.00	105.50
<b>Grand Totals:</b>	<b>319,784.47</b>	<b>319,784.47-</b>	<b>.00</b>

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

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

City Council: \_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

City Recorder: \_\_\_\_\_

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GL Account	Debit	Credit	Proof
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Report Criteria:

Report type: Summary  
Check.Type = {<>} "Adjustment"

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# City of Moberly City Council Agenda Summary

Agenda Number: #10.  
 Department: City Manager  
 Date: December 5, 2022

**Agenda Item:** Appointment to the Housing Authority Board.

**Summary:** In October 2022 Board member Mary Brink term has expired on the Moberly Housing Authority Board. Mary Brink would like to be reappointed to the board for a 4-year term.

**Recommended**

**Action:** Appointment to the Housing Authority Board.

**Fund Name:** N/A

**Account Number:** 0

**Available Budget \$:** 0

ATTACHMENTS:	Council Minutes	Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Jeffrey</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution	<b>Council Member</b>		
<input type="checkbox"/> Bid Tabulation	<input type="checkbox"/> Attorney's Report	M___ S___ <b>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M___ S___ <b>Kimmons</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> P/C Minutes	<input type="checkbox"/> Contract	M___ S___ <b>Kyser</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Lucas</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice			
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

# Housing Authority of the City of Moberly

#10.

MAILING ADDRESS  
P.O. BOX 159  
MOBERLY, MO 65270-0159  
EXECUTIVE DIRECTOR: DONNA DUNWOODY

November 8, 2022

Honorable Jerry Jeffrey  
City of Moberly, Missouri  
101 W Reed  
Moberly MO 65270

Dear Mayor,

The term for Mary Brink expired at the end of October 2022 as a Board Commissioner for the Moberly Housing Authority.

Mrs. Brink has been a faithful and conscientious board member who has expressed interest in serving another four-year term. She rarely misses a board meeting and is always prepared to conduct business when the meeting starts. She earned the respect of the other commissioners who elected her as their chair of the commissioners for a year. Please find enclosed a letter from Mrs. Brink expressing her interest.

The Housing Authority is asking for your consideration to reappoint Mary Brink for another four-year term which would expire October 2026. If you have any questions, please contact me at 263-2287.

Sincerely,



Donna Dunwoody, PHM  
Executive Director

Moberly Towers  
205 Farror Street

660-263-2287  
Fax: 660-263-4282  
TDD: 660-263-2295

L.W. Case Apartments  
220 Taylor Street

Allendale Manor  
Apartments  
23 Kehoe Avenue

Countryview Garden  
Apartments  
23 Kehoe Avenue

660-263-3950  
FAX: 660-263-5509  
TDD: 660-263-229



Mary Brink  
216 S Clark  
Moberly MO 65270



November 8, 2022

Honorable Mayor  
City of Moberly  
101 West Reed  
Moberly MO 65270

Dear Mayor:

My term as a Board Commissioner for the Moberly Housing Authority expired October 2022. The Housing Authority provides a needed service for the low income families, elderly and people with disabilities and handicaps in this community. I do believe that in a way, I help people by being a commissioner. I am interested in serving another four-year term. I am a conscientious board member and have taken my duties seriously and attend the meetings faithfully.

The Housing Authority is in support of another term if you were to consider me for that appointment. If you have any questions, please contact me at 660-676-6633.

Sincerely,

Handwritten signature of Mary Brink in cursive script.

Mary Brink