

**A G E N D A**  
**WORK SESSION MEETING**  
**City of Moberly**  
**November 06, 2023**  
**6:00 PM**

**Requests, Ordinances, and Miscellaneous**

1. A Request From The Chamber Of Commerce To Lift Public Consumption For The 2023 Christmas Festival On Saturday December 2, 2023, From 10:00 A.M. To 10:00 P.M.
2. Downtown Parking Study.
3. Industrial Park-Draft Agreement.
4. An Application For A Conditional Use Permit Submitted By Outline & Associates On Behalf Of The Mackenzie Riley For A Proposed Car Wash Facility Located At 1008 W. Hwy 24.
5. An Application A Text Amendment Application Submitted By City Of Moberly For Clarification And Relocation Of Regulations Related To Driveway Construction In Residential Neighborhoods.
6. Receipt of Proposal For In-Fill Housing At 924 Bond St. and 812 W Reed St. From Spillman Studio Out Of Columbia.
7. Letter Requesting Removal Of Stop Signs And Street Name Change.
8. Discussion Of Farm Lease Agreement.
9. A Request To Authorize The City Manager To Enter Into An Agreement With Cummins Sales And Service For A Fleet Management Agreement To Provide Routine Service On The Moberly Fire Department Engines And Aerial Truck.
10. Lakeshore Project Engineering Addendum.
11. Purchase Of Martin Property Near Heritage Hills Golf Course.
12. A Discussion Regarding A Resolution Approving A Proposal From Vandevanter For A Darwood Lift Station Pump Replacement And Authorizing The City Manager To Execute The Agreement On Behalf Of The City.
13. A Discussion Regarding Accepting The Bid And Authorizing The City Manager To Execute The Agreement For The Downtown CSO EDA Project For Public Utilities.
14. A Discussion Regarding A Proposal From Jacobs Engineering For Engineering Services For The Northwest Regional Lift Station SRF Project Engineering.
15. A Discussion Regarding A Proposal From Jacobs Engineering For Engineering Services For Logan Street Water Line Replacement SRF Project Engineering.

# City of Moberly City Council Agenda Summary

**Agenda Number:** \_\_\_\_\_  
**Department:** Administration  
**Date:** November 6, 2023

**Agenda Item:** A Request From The Chamber Of Commerce To Lift Public Consumption For The 2023 Christmas Festival On Saturday December 2, 2023, From 10:00 A.M. To 10:00 P.M.

**Summary:** Moberly Chamber of Commerce requests the lifting of Moberly Ordinance 6-5 Public Consumption of alcohol to allow downtown vendors to serve alcoholic drinks. These drinks will be served in event cups and wrist bands will be used to prevent underage consumption or outside drinks. Contact is Megan Schmitt, 660-263-6070. The Chamber is requesting usage of parking spaces in the 100- 500 blocks of West Reed Street, the parking spaces of North Clark Street, North Williams Street, North 4<sup>th</sup> Street and North 5<sup>th</sup> Street, and Parks and Recreation parking lot starting on Friday, December 1<sup>st</sup> through Saturday, December 2, 2023. The Chamber would like to hang a banner on the pedestrian bridge for the holiday season provided they present insurance naming the City as additional insurer.

**Recommended Action** Direct staff to bring to the November 20<sup>th</sup> Council meeting for final approval.

**Fund Name:**

**Account Number:**

**Available Budget \$:**

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input checked="" type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Brubaker</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>Lucas</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>Jeffrey</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice		Passed	Failed
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____			



**Moberly Area Chamber of Commerce**  
 211 West Reed Street | Moberly, MO 65270  
 phone 660.263.6070 | fax 660.263.9443  
[www.MoberlyChamber.com](http://www.MoberlyChamber.com)

Dear Mr. Thompson & Moberly City Council:

On behalf of the Moberly Area Chamber of Commerce, we are seeking permission:

- To lift public consumption of alcohol for Moberly's Christmas Festival starting on Saturday, December 2, 2023 in Downtown Moberly from 10:00 am-10:00 pm
- Requesting the usage of the Fennel Complex indoor and outdoor space at 315 North Clark Street on Friday, December 1, 2023 at 5:00pm through Saturday, December 2, 2023 at 10:00pm
- Requesting usage of the parking spaces on the 100-500 blocks of W Reed Street, the parking spaces of North Clark Street, N Williams Street, N 4<sup>th</sup> Street and N 4<sup>th</sup> Street starting on Friday, December 1 at 5:00pm through Saturday, December 2, 2023 until 10:00pm to allow for mobile food trucks, trailers & vendor parking
- Request to use the parking lot at Moberly Parks & Recreation on Friday, December 1, 2023 at 5:00pm through Saturday, December 2<sup>nd</sup> at 10:00pm
- Hang the season's greetings sign on the pedestrian bridge for the holiday season

This event had around 8,000 people in attendance in 2022 and included pop-up vendors, a parade, horse drawn carriage rides, pictures with Santa, live reindeer, Mayor's Tree Lighting and Living Windows.

The parade is not included in this request as it was made in a separate request to the City Council.

Lifting public consumption will allow our downtown restaurants and licensed alcohol vendors to sell alcoholic drinks to event attendees to carry with them during the event. Each person will have a designated wristband to showcase that they are 21 years and older.

If the City of Moberly (or a specific department) would prefer adjustments to this request the event planning committee is open to that feedback. If any specific department has additional questions or would like to meet directly with the planning committee, please contact Megan Schmitt by email [director@moberlychamber.com](mailto:director@moberlychamber.com) or phone 660.263.6070.

Thank you for your time and consideration.

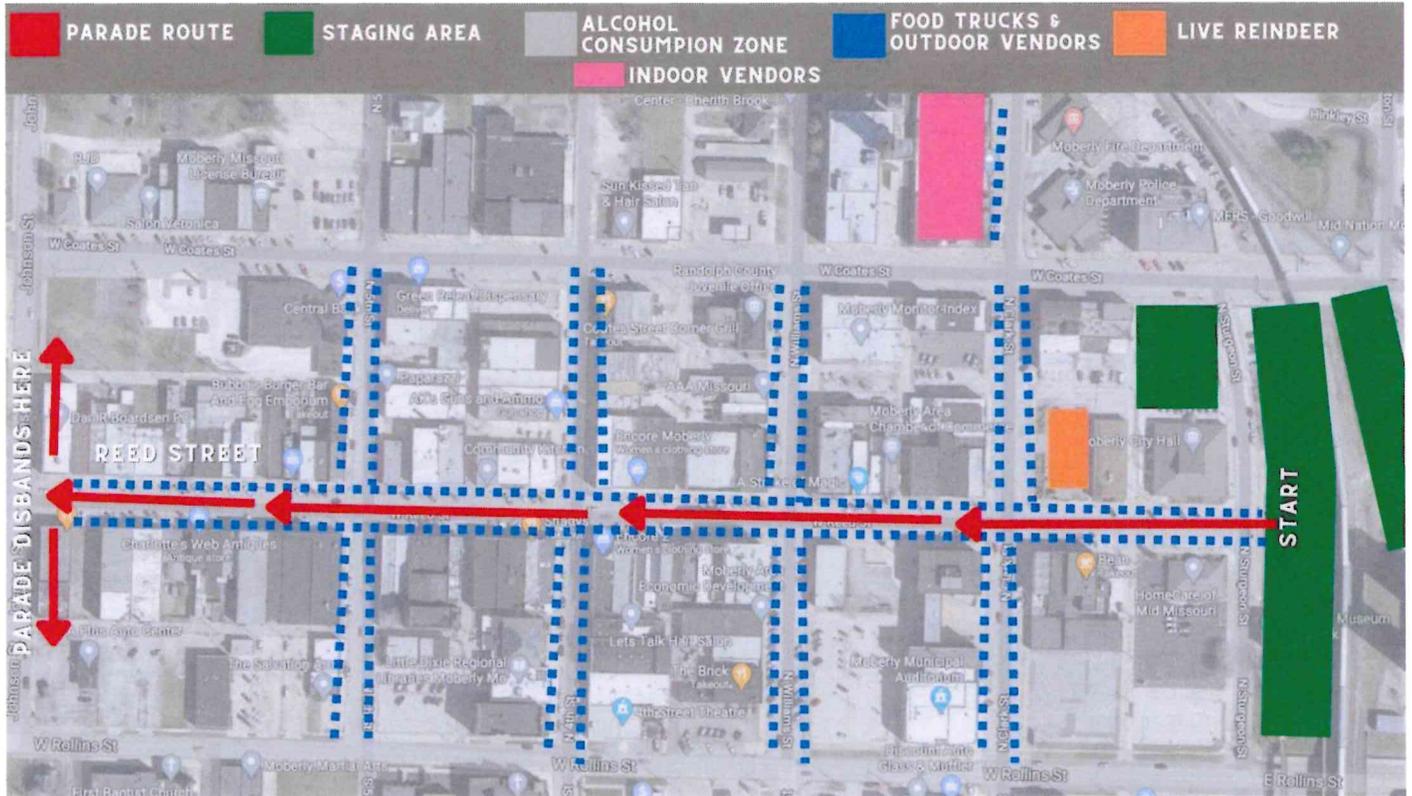
Sincerely,

Megan Schmitt

Executive Director – Moberly Area Chamber of Commerce



Moberly Area Chamber of Commerce  
211 West Reed Street | Moberly, MO 65270  
phone 660.263.6070 | fax 660.263.9443  
www.MoberlyChamber.com



# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #2.

Department: Comm. Dev.

Date: November 6, 2023

**Agenda Item:** Downtown Parking Study.

**Summary:** Attached is a scope/fee for a comprehensive downtown parking study. I would not only look at parking space sizing/layout, it would also take in timing, enforcement and current and projected need for off-street parking.

The diagram below identifies what I sent them as to our needs and what exists in the downtown and immediate surrounding.

The fee estimate was \$29,900 (Not to exceed). Can we put on Nov. 6th work session for discussion please.

This project is not budgeted in a specific line item, and if approved, likely would have to be funded by Transportation Trust Fund.

**Recommended Action:** Direct staff to bring forward to the regular November 20, 2023 City Council for final approval.

**Fund Name:** Transportation Trust

**Account Number:** 600.000.5406

**Available Budget \$:** 36,959.28

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input checked="" type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Brubaker</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>Lucas</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>Jeffrey</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

# STANDARD AGREEMENT FOR CONSULTING SERVICES



## McCLURE ENGINEERING COMPANY

Project Name: Moberly Downtown Parking Study

Project Number: 2023001187

Project Manager: Aaron McVicker

This Agreement, is made on the 26th day of October, 2023, by and between McClure Engineering Company, of Macon, Missouri, (herein referred to as "CONSULTANT") and City of Moberly, MO (hereinafter referred to as "OWNER"). The CONSULTANT will provide services per the terms and conditions outlined in this Agreement and in accordance with the scope and schedule presented in Exhibit 'C'. The services will be compensated for in accordance with the fees or hourly rates as presented in Exhibit 'B', for the Project described as:

### Moberly Downtown Parking Study

- The **OWNER** shall provide information per the **OWNER's** responsibilities presented in Exhibit 'E' in a timely manner so as not to delay the services provided by the **CONSULTANT**.
- Payment to the **CONSULTANT** shall be made within 30 days of invoice for work completed to date. The invoice will include the percentage of work complete, an estimate to complete and, a brief project status summary.
- Past due amounts owed shall accrue interest at 1.5% per month from the 30th day. If the **OWNER** fails to make monthly payments due the **CONSULTANT**, the **CONSULTANT** may, after giving (7) days written notice to the **OWNER**, suspend services under this agreement.
- THIS AGREEMENT IS SUBJECT TO ALL THE TERMS AND CONDITIONS ATTACHED TO THIS AGREEMENT.
- This Agreement represents the entire and integrated agreement between the **OWNER** and the **CONSULTANT** and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the **OWNER** and the **CONSULTANT**.
- Neither party to this AGREEMENT will be liable to the other party for unavoidable delays in performing the Scope of Services, or for the direct or indirect cost resulting from such delays, that may result from acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party. Each party will take reasonable steps to mitigate the impact of any force majeure. The **CONSULTANT** will adjust the schedule and compensation under this agreement to the extent that **CONSULTANT's** schedule and compensation are equitably adjusted by the **OWNER**.  
  
Unavoidable Delays means delays in performance resulting from acts or occurrences outside the reasonable control of the party claiming the delay in performance, including but not limited to storms, floods, excessive rain, hail, wind, hurricanes, tornadoes, fires, explosions or other casualty losses, unusual weather conditions, global medical pandemics, including but not limited to that certain global medical pandemic which has come to be known as "Coronavirus" or "Covid-19", national medical pandemics in the United States of America, strikes, boycotts, lockouts or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts, restrictions, or prohibitions of any federal, State or local governmental unit.
- The amount of the **CONSULTANT's** compensation is \$29,900.00. The contract type is Lump Sum.

Attached Exhibits		Included	Not Included
Exhibit 'A'	Standard Terms and Conditions	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'B'	Hourly Rate Schedule	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'C'	Detailed Scope of Work	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'D'	Subconsultant(s) Contract	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit 'E'	Owner's Responsibilities to Consultant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'F'	Duties and Responsibilities of RPR	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit 'G'	Drawing Depicting the Project	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit 'H'	Construction Item List Cost Estimate	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit 'I'	Regulatory Requirements	<input type="checkbox"/>	<input checked="" type="checkbox"/>

OWNER: City of Moberly, MO

CONSULTANT: McClure Engineering Company

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

Signed:  \_\_\_\_\_

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

Title: \_\_\_\_\_ Authorized Signatory



**McCLURE ENGINEERING COMPANY**  
**CONSULTANT STANDARD TERMS AND CONDITIONS**  
 (Effective 1/1/2023 through 12/31/2023)

- 1.0 ACCESS TO SITE:** The **Consultant** shall at all times have access to the Project site.
- 2.0 INFORMATION PROVIDED BY OTHERS:** The **Consultant** shall be entitled to rely upon the accuracy and completeness of data provided by the **Owner** and shall not assume liability for such data. The **Consultant** does not practice law, insurance or financing, therefore, the **Owner** shall furnish all legal, accounting and insurance counseling services as may be necessary to protect themselves at any time during the Project. **Owner** shall hold **Consultant** harmless from damages that may arise as a result of inaccuracies of information or data supplied by **Owner** or others to **Consultant**.
- 3.0 OWNERSHIP AND REUSE OF DOCUMENTS:** All documents are instruments of service, and **Consultant** shall retain an ownership and property interested therein (including the copyright and the right of reuse at the discretion of the **Consultant**) whether or not the Project is completed.
- 3.1 **Owner** may make and retain copies of documents for information and reference in connection with the use of the documents on the Project. **Consultant** grants **Owner** a limited license to use the documents on the Project, extensions of the Project, and for related uses of the **Owner**, subject to receipt by **Consultant** of full payment due and owing for all services relating to preparation of the documents, and subject to the following limitations: (1) **Owner** acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by **Consultant**, or for use or reuse by **Owner** or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by **Consultant**; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by **Consultant**, as appropriate for the specific purpose intended, will be at **Owner's** sole risk and without liability or legal exposure to **Consultant** or to its officers, directors, members, partners, agents, employees, and **Consultants**; (3) **Owner** shall indemnify and hold harmless **Consultant** and its officers, directors, members, partners, agents, employees, and **Consultants** from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by **Consultant**; and (4) such limited license to **Owner** shall not create any rights in third parties.
- 3.2 If **Consultant** at **Owner's** request verifies the suitability of the documents, completes them, or adapts them for extensions of the Project or for any other purpose, then **Owner** shall compensate **Consultant** at an amount agreed upon by **Owner** and **Consultant**.
- 4.0 UNDERGROUND UTILITIES:** Due to the nature and uncertainty of the accuracy of data available for underground utilities, including drainage tile, and/or any information that may be supplied by the **Owner**, third parties, and/or research performed by the **Consultant** or its subcontractors, the **Owner** agrees to indemnify and hold harmless the **Consultant** for all claims, losses, costs and damages arising out of the location of underground utilities provided by the **Consultant** under this Agreement.
- 4.1 The **Owner** may choose to contract separately to have extensive investigations and research conducted if the **Owner** feels it necessary to have more accurate location of underground utilities confirmed.
- 5.0 SUBSURFACE CONDITIONS:** The **Consultant** may advise the **Owner** to conduct soil and/or subsurface testing and analysis to provide information to the **Owner**, **Consultant**, and contractor(s) as to the subsurface conditions that may generally be encountered during subsurface construction.
- 5.1 The **Consultant** cannot warrant or guarantee that the information provided is reflective of all subsurface conditions that may be encountered, or to the extent that subsurface conditions such as soil properties, groundwater, rock, etc., may vary from location to location throughout subsurface construction.
- 5.2 Any unexpected change or unforeseen subsurface conditions (including those that may be caused by weather conditions) will be addressed when encountered and may result in a change in construction price and/or schedule, and the **Consultant** shall be held harmless from issues arising out of these unseen subsurface conditions.
- 6.0 HAZARDOUS MATERIALS – INDEMNIFICATION:** The **Consultant** is not in the business of making environmental site assessments for purposes of determining the presence of any toxic, hazardous or other environmental damaging substances. The purpose of this provision is to be certain that the **Owner** is aware of the potential liability if toxic, hazardous or environmental damaging substances are found on or under the property. **Consultant** makes no representations regarding an environmental site assessment, relies upon **Owner** to have fully investigated the need and/or scope of such assessment and assumes no responsibility for the determination to make an environmental site assessment on the subject property.
- 7.0 OPINIONS OF PROBABLE COST:** **Consultant's** opinions (if any) of probable construction costs are to be made on the basis of **Consultant's** experience, qualifications, and general familiarity with the construction industry. However, because **Consultant** has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, **Consultant** cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from opinions of probable construction cost prepared by **Consultant**. If **Owner** requires greater assurance as to probable construction cost, then **Owner** agrees to obtain an independent, third-party cost estimate.
- 8.0 PROJECT FUNDING AND FINANCING:** It shall be the responsibility of the **Owner** to plan, organize, and secure funding to pay all costs associated with the project. The funding may include local financing and/or funding obtained through federal or state funding programs such as low interest loans, grants, etc. If the **Consultant** is retained to help apply and/or secure funding from internal or external funding agencies, the **Consultant** shall not be responsible for the acquisition of funding and makes no guarantee funding applications prepared by the **Consultant** will successfully secure funds.
- 8.1 If the **Owner** secures outside funding from any such programs, while the **Consultant** may be retained to help monitor and submit pay requests for loan or grant draws from the respective agencies, the **Consultant** shall not be responsible for the **Owner's** obligation to comply with any criteria required to use the funds, including responsibility for any funding match required by the **Owner**.
- 9.0 ADDITIONAL SERVICES:** It is not unusual for the **Owner** to request the **Consultant** to provide additional services or that additional work may be required to deal with a contractor during construction that was not foreseen at the time the original scope of work was agreed to when the **Consultant** contract was signed. The **Owner** recognizes the **Consultant** shall be entitled to additional compensation to coordinate such changes and schedules shall be adjusted accordingly. The **Consultant** may prepare drawings, specifications and other documents required to address the changes in the scope of work as necessary to satisfactorily complete the project.
- 10.0 BETTERMENT:** If the **Consultant** failed to include a component(s), or if during construction it is discovered a component(s) is required that was not in the **Consultant's** original plans or specifications, and that the component(s) is necessary to complete a satisfactory project, the **Consultant** shall not be responsible for paying the cost required to add such component(s) to the extent that such component(s) would have been required and included in the original construction documents.
- 10.1 In no event shall the **Consultant** be responsible for any cost or expense that provides betterment or that upgrades or enhances the value of the **Owner's** project if the component should have originally been included in the construction drawings and/or specifications.



**11.0 SHOP DRAWING REVIEW:** If, as part of this Agreement **Consultant** reviews contractor submittals, such as shop drawings, product data, samples and other data, as required by **Consultant**, these reviews and approvals shall be only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the contractor. **Consultant** shall not be responsible for any deviations from the contract documents not brought to the attention of **Consultant** in writing by the contractor. **Consultant** shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

**12.0 CONSTRUCTION OBSERVATION:** If, as part of this Agreement, **Consultant** is providing construction observation services, **Consultant** shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the contractor's or subconsultant's work and to determine if the work is preceding in general accordance with the Contract Documents. The **Consultant** is not a contractor and shall not at any time supervise, direct, control, or have authority over any of the contractor's and/or subconsultant's work.

- 12.1 **Consultant** shall not have authority over or be responsible for the means, methods, techniques, sequences, schedule, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for the security or safety at the site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's furnishing and performing of its work.
- 12.2 **Consultant** shall not be responsible for the acts or omissions of any contractor
- 12.3 **Consultant** neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the work in accordance with the construction contract documents.
- 12.4 **Consultant** shall not be responsible for any decision made regarding the construction contract documents, or any application, interpretation, clarification, or modification of the construction contract documents, other than those made by the **Consultant** or its **Consultants**.
- 12.5 Unless otherwise specified in this Agreement, the **Owner** has not retained the **Consultant** to make detailed inspections or to provide exhaustive or continuous project review and observation services.

**13.0 DESIGN WITHOUT CONSTRUCTION PHASE SERVICES:** If **Consultant** is not retained for construction observation and/or on-site resident observation services, **Consultant** shall have no design, shop drawing review, or other obligations during construction, and **Owner** assumes all responsibility for the application and interpretation of construction contract documents, review and response to contractor claims, construction contract administration, processing of change orders and submittals, revisions to the construction contract documents during construction, construction observation and review, review of contractor's payment applications, and all other necessary construction phase administrative, engineering, surveying and professional services. **Owner** waives all claims against the **Consultant** that may be connected in any way to construction phase administrative, engineering, surveying or professional services.

**14.0 MEDIA REPRESENTATIONS:** The **Consultant** shall have the right to include photographic or artistic representations of the design of the Project among the **Consultant's** promotional and professional materials. The **Consultant** shall be given reasonable access to the completed Project to make such representations. However, the **Consultant's** materials shall not include the **Owner's** confidential or proprietary information. The **Owner** shall provide professional credit for the **Consultant** in the **Owner's** promotional materials for the Project. Notwithstanding anything to the contrary in the present agreement, the Parties' obligations outlined in this clause shall survive the termination of this Agreement for an indefinite term.

**15.0 TERMINATION:** This Agreement may be terminated by either party upon not less than seven days written notice should the other party fail substantially to perform in accordance with the terms of the Agreement through no fault of the party initiating the termination. This Agreement may

be terminated by the **Owner** upon not less than seven days' written notice to the **Consultant** in the event the Project is permanently abandoned.

- 15.1 Failure of the **Owner** to make payments to the **Consultant** in accordance with the Agreement shall be considered substantial non-performance and cause for termination. If the **Owner** fails to make payment when due the **Consultant** for services, the **Consultant** may, upon seven days' written notice to the **Owner**, suspend performance of services under this Agreement. Unless payment in full is received by the **Consultant** within seven days of the date of the notice, the suspension shall take effect without further notice.
- 15.2 In the event of a suspension of services, the **Consultant** shall have no liability to the **Owner** for delay or damage caused the **Owner** because of such suspension of services. In the event of termination not the fault of the **Consultant**, the **Consultant** shall be compensated for services performed prior to termination and all termination expenses. Termination expenses are in addition to compensation for Basic and Additional Services, and include expenses which are directly attributable to termination.
- 16.0 DISPUTE RESOLUTION:** Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to mediation unless each of the parties mutually agrees otherwise. No mediation arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the **Owner**, **Consultant**, and any other person or entity sought to be joined. In no event shall the demand for mediation be made after the date when the institution of legal or equitable proceedings based upon such claim would be barred by the applicable statute of limitations. The award rendered in the mediation shall be non-binding.
- 17.0 LIMITATION OF LIABILITY:** The **Consultant's** liability shall be limited to \$50,000.00 or the fee for the work performed, whichever is greater, or as specifically agreed to by separate agreement.
- 18.0 STANDARD OF CARE:** In providing services under this Agreement, the **Consultant** shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.
- 19.0 PAYMENT:** Amounts unpaid 30 days after invoice date shall bear interest from the date payment is due at a rate of 1.5% per month compounded and shall include costs for attorney fees and other collection fees related to collecting fees for service.
- 20.0 LIEN RIGHTS:** **Consultant** retains all rights to mechanic's or design professional lien rights through the completion of the obligations of this agreement at the sole judgment of the **Consultant**.
- 21.0 WAIVERS:** The **Owner** and the **Consultant** waive all rights against each other and against the contractors, **Consultants**, agents and employees of the other for damages, but only to the extent covered by property insurance during construction. The **Owner** and **Consultant** each shall require similar waivers from their contractors, **Consultants** and agents.
- 22.0 ASSIGNMENT:** The **Owner** and **Consultant**, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither **Owner** nor **Consultant** shall assign this Agreement without the written consent of the other.
- 23.0 GOVERNING LAW:** Unless otherwise provided, the Agreement shall be governed by the laws of the State of Iowa.
- 24.0 COMPLETE AGREEMENT:** This Agreement represents the entire and integrated agreement between the **Owner** and **Consultant** and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both **Owner** and **Consultant**. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the **Owner** or **Consultant**.

# EXHIBIT B



## McCLURE ENGINEERING COMPANY HOURLY RATE SCHEDULE (Effective 1/1/2023 through 12/31/2023)

<b>PERSONNEL</b>	<b>HOURLY RATE</b>
Principal .....	\$270 - \$295
Project Manager .....	\$185 - \$230
Senior Professional.....	\$185 - \$285
Professional.....	\$155 - \$185
Junior Professional.....	\$125 - \$155
Senior Technician .....	\$155 - \$175
Technician.....	\$115 - \$135
Landscape Architect .....	\$125 - \$160
On-Site Representative .....	\$115 - \$155
Client/Project Liaison .....	\$135 - \$185
Administrative .....	\$65 - \$85
Public Relations .....	\$115 - \$150
3 Member Survey Crew .....	\$280
2 Member Survey Crew .....	\$210
1 Member Survey Crew .....	\$135

<b>EQUIPMENT</b>	
3D Scanner per Scan .....	\$30.00
UAV per Flight .....	\$125.00
Sonar Boat .....	\$125.00

<b>MISCELLANEOUS EXPENSES</b>	
Survey Vehicle Mileage.....	\$0.75/Mile + \$0.15 fuel surcharge
Automobile Mileage (at current IRS rate).....	Current IRS Rate
Printing.....	Per Contract
Survey Supplies (Hubs, Lath, Paint, Nails, etc.) .....	Per Contract
Out-of-Pocket Expenses (Meals, Hotels, etc.).....	Per Contract

\*Rates are subject to change based on billing rates for future years

McCLURE ENGINEERING COMPANY  
DETAILED SCOPE OF WORK  
Moberly Downtown Parking Study

I) PROJECT DESCRIPTION

- A) The PROJECT includes data collection and the development of a City of Moberly Downtown Parking Study and associated report. The report will outline the capacity of existing parking, layout recommended spacing and sizing of parking spaced along all streets to account for ‘today’s’ larger vehicles than what was originally designed, recommendation on enforcement of on-street and public lot parking, and the evaluation of potential public parking lot acquisitions.
- B) Parking Study Area:



II) BASIC SERVICES

- A) Phase 100 – Preliminary Planning and Reports
  - 1) Task 101 – Preliminary Planning and Reports (General)
    - (a) The CONSULTANT will utilize the collected data and perform analysis to develop the City of Moberly Downtown Parking Study and report. The CONSULTANT will submit a Draft Report with a review meeting with the OWNER. Upon OWNER comments and meeting, the CONSULTANT will finalize and submit a Final Report.
    - (b) City of Moberly Downtown Parking Study report will include the following:
      - (i) Introduction
      - (ii) Existing Conditions

1. Number of parking spaces, type of parking spaces (handicap, permit, etc.), and restrictions of parking spaces
  2. Parking violations observed, if any
  3. Parking spaces physical dimensions and locations
  4. Current enforcement procedures
- (iii) Parking Analysis
1. On-Street Parking and Parking Lot capacity analysis, including capacity analysis of handicap and other specialty parking spaces.
  2. Parking stall widths and length analysis
- (iv) Recommendations
1. Parking stall layout, spacing, and size for each street block in the study area
  2. Parking enforcement and restrictions
  3. Public parking acquisition

B) Phase 200 – Existing Conditions

1) Task 202 – Data Gathering/Inventory

(a) Existing Parking Spaces:

- (i) The CONSULTANT will count the number of total parking spaces, including handicap spaces and other specially designated spaces, for each block of street and parking lot outlined in the study area.
- (ii) The CONSULTANT will measure the widths, lengths, and general angle of a standard parking space for each street block and parking lot outlined in the study area.
- (iii) The CONSULTANT will measure street widths, for each designated block, to assist in the determination of appropriate parking spaces.
- (iv) The CONSULTANT will document the existing restrictions (time limits, permit requirements, private, etc.) on the existing parking locations within the study area.

(b) Field Observations:

- (i) The CONSULTANT will observe and record parking stalls occupied over a 13-hr period (7:00 AM hour to the 7:00 PM hour) for all parking lots and on-street parking locations in the study area.
- (ii) The CONSULTANT will observe and record any noted violations during the study period.

C) Phase 850 - Project Management and Coordination

1) Task 851 – Project Management and Coordination (Estimated 3 months).

(a) Project Management:

- (i) The project manager of the CONSULTANT will be responsible for coordination with the OWNER.
- (ii) The CONSULTANT will provide up to three (3) monthly progress reporting and project invoices to the OWNER.
- (iii) The CONSULTANT will conduct internal design review meetings.
- (iv) The CONSULTANT will develop and maintain PROJECT schedule.
- (v) The CONSULTANT will maintain documentation of pertinent correspondence made by email, memos, letters, telephone, etc.

(b) Project Coordination:

- (i) Kick-off Meeting: The CONSULTANT will hold a kickoff meeting with the OWNER to discuss the project data collection and timeframe, areas of concern or of special consideration, background information, and timeline.
- (ii) Draft Report Meeting: The CONSULTANT will hold a meeting with the OWNER upon submittal of the Draft report to review OWNER comments and address questions.

### III) ADDITIONAL SERVICES NOT INCLUDED IN THIS AGREEMENT

The following services are excluded from the basic services but may be performed by the CONSULTANT upon written amendment to this agreement.

- Neighborhood meetings, individual meetings, and other meetings not specifically outlined in this agreement
- Preliminary or Final Design and plans/construction documents
- Boundary retracement of existing lots to set missing monuments
- Grant administration
- Street lighting design
- Media correspondences and public outreach planning documents
- Land purchase costs, closing costs associated with land acquisition, and costs associated with condemnation process
- Appraisal fees and condemnation services
- Preparation of Acquisition Plats and Legal Descriptions not specifically mentioned herein.
- Land purchase costs, closing costs associated with land acquisition, and costs associated with condemnation process
- Right-of-Way Services not specifically mentioned herein, including Individual Parcel Exhibits, Preparation of Parcel Files, Appraisals and Compensation Estimates, Appraisal Review, Right-of-Way Negotiations/Acquisitions, Closing, Condemnation Services
- Testing of any suspect environmental material, including but not limited to asbestos, radon, lead based paint, air quality, or industrial waste
- Other permits not indicated within this scope
- Services beyond preparing and submitting the permit forms
- Any permit and publication fees associated with permit applications except as noted
- Preparation of bidding or contract documents for alternate bid prices
- Construction material testing services
- Construction staking, RPR, and construction administration services
- Record drawings
- Project management and coordination tasks beyond that scheduled project completion period
- Subsurface Utility Investigation Test Holes
- Drainage Report or Drainage Memorandum
- Environmental and/or Cultural Review and Assessment
- Wetland mitigation bank costs and fees
- Special meetings and meetings not outlined in the Scope of Services
- Other services not specifically outlined in this Agreement

**OWNER** shall do the following in a timely manner so as not to delay the services of the **CONSULTANT**:

1. Designate in writing a person to act, as **OWNER'S** representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define **OWNER'S** policies and decisions with respect to **CONSULTANT'S** services for the Project.
2. Provide all criteria and full information as to **OWNER'S** requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards, which **OWNER** will require to be included in the drawings and specifications.
3. Assist **CONSULTANT** by placing at **CONSULTANT'S** disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
4. Arrange for access to make all provisions for **CONSULTANT** to enter upon public and private property as required for **CONSULTANT** to perform services under this Agreement.
5. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by **CONSULTANT**, obtain advice of an attorney, insurance counselor and other consultants as **OWNER** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **CONSULTANT**.
6. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
7. Attend the prebid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspection and final payment inspection.
8. Give prompt written notice to **CONSULTANT** whenever **OWNER** observes or otherwise becomes aware of any development that affects the scope or timing of **CONSULTANT'S** services, or any defect or non-conformance in the work of any Contractor.
9. Arrange for financing and pay for services as agreed to in this Agreement.



# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_ WS #3.

Department: Comm. Dev.

Date: November 6, 2023

**Agenda Item:** Industrial Park-Draft Agreement.

**Summary:** The attached agreement is for proposed services for all of the engineering for all components of the Industrial Park Infrastructure Grant(s). This work will extend McKeown Parkway for proposed connection of Robertson Rd, Fowler Road to Buchanan St. and Robertson Road, from Fowler to McKeown Parkway. The estimated cost of the complete project is \$3.14M. Based on this estimated cost, we have 100% grant funding for this work. It's possible that bids could come in higher.

When we initially applied for the Governor's Cost Share component of this, we anticipated funding \$333,000 worth of engineering costs from Transportation Trust Fund. At this point, I remain hopeful that we can get it all completed with grant funds alone. Staff recommends approval so that we can get started on survey and design as soon as possible due to the tight limits on spending associated with the Governor's Cost Share portion of the funds.

**ARTICLE V–PAYMENT PROVISIONS**

1.A Lump Sum fee of \$542,433.00 distributed between scope elements as follows:

Architectural and Engineering Fees	\$290,303.00
Other Architectural and Engineering Fees	\$ 7,500.00
Project Inspection Fees	\$244,630.00

**Recommended Action:** Direct staff to bring forward to the regular November 20, 2023 City Council for final approval.

**Fund Name:** Transportation Trust

**Account Number:** 600.000.5406

**Available Budget \$:** 36,959.28

ATTACHMENTS:		Roll Call	Aye	Nay
<input type="checkbox"/> Memo	<input type="checkbox"/> Council Minutes	<b>Mayor</b>		
<input checked="" type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Brubaker</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>Lucas</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>Jeffrey</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

**BARTLETT & WEST, INC.****AGREEMENT FOR PROFESSIONAL SERVICES**

This is an Agreement (hereafter referred to as the “Agreement”) by and between City of Moberly (“Client”), located at 101 W Reed Street, Moberly, MO 65270 and Bartlett & West, Inc. (“Consultant”), located at 601 Monroe Street, Suite 201, Jefferson City, MO 65101.

WHEREAS, Client intends to construct roadways and storm sewer improvements within the industrial park which will utilize MoDOT Governor’s Cost Share, Federal Economic Development Administration (EDA), and Missouri ARPA Industrial Site grant funds for various portions of design and/or construction.

WHEREAS, Client intends to engage Consultant to perform certain professional services with regard to such work, which is hereinafter called the Project.

Client and Consultant therefore agree as follows:

**ARTICLE I – DEFINITIONS AND RULES OF INTERPRETATION**

- A. The agreement between Client and Consultant consists of this Agreement for Professional Services, the Standard Provisions of Agreement for Professional Services attached as Exhibit A, and the following exhibits and addenda:

1. Exhibit B – Scope of Services

All such items together shall be referenced herein as the “Agreement.”

- B. In the event of any conflict in the language of this Agreement for Professional Services with the Standard Provisions of Agreement attached hereto, the language of the Standard Provisions of Agreement shall control.
- C. This Agreement represents the entire and integrated agreement between Client and Consultant and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Client and Consultant.
- D. This Agreement shall be governed by the laws of the state of Kansas.

**ARTICLE II – SCOPE OF WORK**

- A. Consultant shall perform services as described in Exhibit B – Scope of Services.

Any additional services must be requested separately by Client and agreed to by Consultant pursuant to Article II.A.1 below.

1. Additional services. Additional services will be provided by Consultant upon the request of Client and paid for as defined in Article V, Payment Provisions. These services may include, but are not limited to:
  - a. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by Consultant including, but not limited to, changes in size, complexity, Client's schedule, character of construction, or method of financing. These services may also be as a result of changes in laws or regulations after the signing of this Agreement or other causes beyond Consultant's control.
  - b. Providing construction surveys and staking to enable the Contractor to perform its work other than the establishment of baselines and benchmarks.
  - c. Preparing and furnishing record drawings showing appropriate record information based on Project annotated record information furnished by the Contractor.
  - d. Serving as a consultant or witness for Client in any litigation, arbitration, or other dispute resolution process related to the Project.
  - e. Other services performed by Consultant not otherwise provided for in this Agreement.
2. Excluded services. The following items are specifically excluded from the scope of work:
  - a. Construction phase geotechnical or soils testing
  - b. Environmental assessment
  - c. Investigating or performing any archaeological study
  - d. Additional items specifically excluded in Exhibit B – Scope of Services.

### ARTICLE III – CLIENT'S RESPONSIBILITIES

In addition to other responsibilities set forth in this Agreement, Client shall:

- A. Provide Consultant with all criteria and full information as to Client's requirements for the Project, including design objectives, capacity, performance requirements, and budgetary limitations upon which Consultant may rely. Consultant shall be entitled to rely, without liability, on the accuracy and completeness of any and all information provided by Client, Client's consultants and contractors, and information from public records, without the need for independent verification.
- B. Furnish available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the site.
- C. Arrange for safe access to and make all provisions for Consultant to enter upon public and private property as required to perform services under this Agreement.
- D. Examine alternative solutions, reports, drawings, specifications, and other documents presented by Consultant and render timely decisions pertaining to the documents.
- E. Provide timely reviews, approvals, and permits from all governmental authorities having jurisdiction over elements or phases of the Project.
- F. Participate in conferences, meetings, bid openings, and other similar aspects of the Project as requested by Consultant.

ARTICLE IV – TIME OF PERFORMANCE FOR SERVICES

- A. The services under this Agreement have been agreed to in anticipation of the orderly progress of the Project through completion. Unless a specific time of performance for services is specified in this Agreement, Consultant's obligation to render services hereunder will be for a period which may be reasonably required for the completion of said services. If a specific time of performance is provided herein and if Client has requested changes in the scope or character of the Project, the time of performance shall be adjusted equitably.

It is anticipated that design will occur in 2024 with construction occurring in 2025 or sooner.

ARTICLE V – PAYMENT PROVISIONS

- A. Client shall pay Consultant for services described in the Scope of Work, Article II.A.1-6 as follows:

1. A Lump Sum fee of \$ 542,433.00 distributed between scope elements as follows:

Architectural and Engineering Fees	\$ 290,303.00
Other Architectural and Engineering Fees	\$ 7,500.00
Project Inspection Fees	\$ 244,630.00

- B. The Lump Sum includes compensation for Consultant's services and services of Consultant's sub-consultants, if any, for the services as defined.
- C. Additional services, as referenced in Article II.A.7. shall be agreed upon in advance of the services being provided. The additional services will be billed in the same manner as above unless otherwise stated in this Agreement.

ARTICLE VI – INSURANCE

- A. Consultant shall purchase and maintain insurance as set forth below:

1. Commercial General Liability insurance with a limit of \$1,000,000 for each occurrence and \$2,000,000 general aggregate.
2. Automobile Liability insurance with a limit of \$1,000,000 for each accident, combined single limit for bodily injury and property damage.
3. Workers Compensation and Employer's Liability insurance in accordance with statutory requirements, with a limit of \$1,000,000 for each accident.
4. Professional Liability insurance on a claims-made basis in the amount of \$3,000,000 per claim and \$3,000,000 annual aggregate.
5. Commercial Umbrella, with a limit of \$2,000,000 each occurrence and aggregate.

## ARTICLE VII – DISPUTE RESOLUTION

- A. The parties shall endeavor to resolve disputes in accordance with paragraph 10 of the Standard Provisions of Agreement. Should that not be successful, any claim, dispute or other matter in question arising out of or related to this Agreement shall move to litigation and be brought only in the district court of Shawnee County, Kansas. The parties agree to this venue and to jurisdiction by this court.

## ARTICLE VIII – INDEMNITY

- A. Indemnity by Consultant. Consultant agrees to indemnify and hold harmless Client from and against damages, losses, costs or expenses (including reasonable attorney's fees) actually incurred by Client but only to the extent caused by the negligent performance of Consultant. In no event shall the indemnification obligation extend beyond the date when the institution of legal or equitable proceedings for professional negligence would be barred by any applicable statute of repose or statute of limitations. If Client and Consultant are both at fault for certain damages, then each party shall bear liability for its own respective percentage of fault.
- B. Consultant will not be required to indemnify Client for claims caused or alleged to be caused in whole or in part by the acts or omissions of Client or other third parties for whom Consultant is not responsible.
- C. Consultant's obligation to indemnify Client is limited by Article IX – Design Contingency and Limitation of Liability provisions.
- D. Under no circumstances shall Consultant be required to pay the defense costs of Client, unless Consultant is adjudged to be negligent by a court of law and such defense costs are included as damages in the award. Consultant's obligation to pay defense costs, if awarded by a court, is limited by Article IX – Design Contingency and Limitation of Liability provisions, if any such provisions are part of this Agreement.

## ARTICLE IX – DESIGN CONTINGENCY AND LIMITATION OF LIABILITY

- A. DESIGN CONTINGENCY. Consultant makes no warranty, express or implied, that its design is free of errors. Client and Consultant agree that certain increased costs and changes may be required and are anticipated due to omissions, errors or inconsistencies in drawings and specifications prepared by Consultant. Therefore, Client agrees to set aside a reserve in the amount of 10% of the estimated total project cost as a contingency to be used, as needed, to pay for any such increased costs and changes. The percentage is intended to be for the whole project cost and not applied as a percentage to individual segments or quantities of a construction project. Client agrees to make no claim against Consultant with respect to any increased cost within this contingency amount. If costs due to changes resulting from design errors, omissions or inconsistencies exceed the contingency, then Consultant shall be responsible for damages incurred by Client above that sum but only to the extent caused by Consultant's negligent performance. Cost increases as a result of Client requests made after construction documents are issued for permit, changes in governmental agency requirements after previous approval, or unforeseen conditions are not costs due to errors, omissions or inconsistencies. In no event shall Consultant be responsible for direct costs that Client would have incurred in the construction

contract, including actual installed quantities during construction, but for Consultant’s error or omission.

- B. **LIMITATION OF LIABILITY.** To the extent that claims against Consultant exceed the contingency set forth above, then to the fullest extent permitted by law, Client agrees to limit the total liability, in the aggregate, of Consultant’s officers, directors, employees, agents and independent professional associates and consultants, and any of them, to Client, anyone claiming by, through or under Client, for any and all injuries, claims, losses, expenses or damages whatsoever arising out of or in any way related to Consultant’s services, the Project or this Agreement from any cause or causes whatsoever, including but not limited to the negligence, errors, omissions, strict liability or breach of contract of Consultant’s officers, directors, employees, agents or independent professional associates or consultants, or any of them. Such liability shall not exceed the total compensation actually received by Consultant under this Agreement, or the total amount of \$50,000.00, whichever is greater.
- C. Client and Consultant agree that specific and adequate consideration has been given for this limitation of liability.

ARTICLE X – TERM OF AGREEMENT

- A. This Agreement shall become effective upon signatures by both Parties.

IN WITNESS WHEREOF, the duly authorized representatives of the Parties hereto have executed this Agreement.

**Client:**

CITY OF MOBERLY, MO

**Consultant:**

BARTLETT & WEST, INC.

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

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

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

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

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

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

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

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

## EXHIBIT A

### STANDARD PROVISIONS OF AGREEMENT FOR PROFESSIONAL SERVICES

Client and Bartlett & West, Inc. (referred to as Consultant), agree that the following provisions shall be part of this Agreement.

1. Payment. Unless stated otherwise in this Agreement, fees and all other charges will be billed monthly as the work progresses, and the net amount shall be due at the time of billing. If Client does not pay invoices within thirty (30) days of the billing date, Consultant may, upon written notice to Client, suspend further work until payment is current. Client agrees to indemnify and hold Consultant harmless from any claim or liability resulting from such suspension. Interest not exceeding the maximum rate allowable by law will be payable on any amounts not paid within thirty (30) days of the billing date, payment thereafter applied first to accrued interest and then to the principal unpaid amount. If Client fails to pay Consultant pursuant to this section, Client shall be liable for and shall reimburse Consultant for expenses incurred by Consultant in connection with or in any way relating to Client's failure to pay. Such expenses shall include, without limitation, reasonable attorneys' fees, legal expenses, and court costs. In the event Client fails to pay Consultant within ninety (90) days after the billing date, then Client agrees that Consultant shall have the right to consider such failure as a substantial breach of this Agreement and the duties of Consultant under this Agreement may be terminated at the election of Consultant upon five (5) days written notice.

2. Taxes. Compensation payable to Consultant pursuant to this Agreement shall be in addition to taxes that may be assessed against Consultant by any state or political subdivision directly on services performed or payments for services performed by Consultant. Such taxes that Consultant may be required to collect or pay shall be added by Consultant to invoices submitted to Client pursuant to this Agreement.

3. Suspension. In the event all or any portion of the work prepared or partially prepared by Consultant is suspended, abandoned, or terminated, Client shall pay Consultant for the work performed on an hourly basis, not to exceed any maximum contract amount specified herein.

4. Termination. This Agreement may be terminated by Client or Consultant upon thirty (30) days written notice in the event of substantial failure of the other party to perform in accordance with the terms of this Agreement. Client expressly agrees to hold Consultant harmless from any liability arising out of Consultant's termination of its services hereunder due to Client's failure to perform and/or pay in accordance with the provisions of this Agreement. In the event of termination of this Agreement, Client shall promptly pay Consultant for all fees, charges, and services performed by Consultant in accordance with the compensation arrangements under this Agreement or on an agreed hourly basis. If Consultant files suit for breach of contract, all attorney fees, court costs, and other related costs will be paid by Client if a Court finds Client has breached its contract with Consultant.

5. Delay. All agreements on Consultant's part are contingent upon, and Consultant shall not be responsible for damages or be in default, or be deemed to be in default, by reason of delays in performance of others by reason of strikes, lock-outs, accidents, acts of God, widespread infectious disease outbreaks (including, but not limited to, epidemics and pandemics), and other delays unavoidable or beyond Consultant's reasonable control, or due to shortages or unavailability of labor at established area wage rate or delays caused by failure of Client or Client's agents to furnish information or to approve or disapprove Consultant's work promptly, or due to late or slow, or faulty performance by Client, other contractors or governmental agencies, the performance of whose work is precedent to or concurrent with the performance of Consultant's work. In the case of the happening of any such cause of delay, the time of completion shall be extended accordingly.

6. Client Changes. In the event any changes are made in the work to be performed hereunder, by Client or persons other than Consultant, and which affect Consultant's work, any and all liability arising out of such changes is waived as against Consultant and Client assumes full responsibility for such changes unless Client has given Consultant prior notice and has received from Consultant written consent for such changes.

7. Third Party Information. Consultant is not responsible, and liability is waived by Client as against the Consultant, for use by Client or any other person of any data, reports, plans or drawings not prepared by Consultant.

8. Waiver of Consequential Damages. Neither Client nor Consultant shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of, or connected in any way to the Project or this Agreement. This mutual waiver includes, but is not limited to, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings or diminution of property value and shall apply to any cause of action including negligence, strict liability, breach of contract and breach of warranty.

9. Completion. In no event shall any statute of limitations commence to run any later than the date when Consultant's services are substantially completed, and any cause of action against Consultant arising from or pertaining to this Agreement must be initiated no later than two (2) years after the date when Consultant's services are substantially completed.

10. Disputes. If a claim, dispute or other matter in question arises out of or related to this Agreement, the parties shall first try to resolve the issue through prompt negotiations conducted by an officer authorized to make decisions on behalf of each party. If the dispute is not resolved within sixty (60) calendar days of the commencement of negotiations, the parties shall appoint a qualified, neutral, third-party mediator, as a condition precedent to the institution of litigation. If the parties are unable to agree upon a

mediator, Consultant shall present a list of three prospective mediators to Client, who shall choose the mediator. In the event of failure on the part of Client to do so within ten (10) days of receipt of the list, Consultant shall choose the mediator. The mediator's fees shall be shared equally and shall be held at the offices of Client or Consultant as selected by the mediator.

11. Waiver of Subrogation. To the extent any damage or claim is covered by property insurance, Client and Consultant waive all rights against each other and against the contractors, consultants, and employees of the other for damages, except such rights as they may have to the proceeds of such property insurance. Client or Consultant, as applicable, shall require of the contractors, consultants, agents, and employees of any of them similar waivers in favor of the other parties enumerated herein.

12. Standard of Care. Consultant's services shall be performed in a manner consistent with that degree of skill and care exercised by practicing professionals performing similar services at the same time, at the same locality, and under the same or similar circumstances and conditions. Consultant makes no other representations or any warranties, whether expressed or implied, with respect to the services rendered hereunder.

13. Consultant Data. All reports, plans, specifications, computer files, data resulting from laser scanning, survey notes, and other original documents are instruments of service and shall remain the property of Consultant. Consultant may sell said instruments of service to third-party sources.

14. Software Ownership. Consultant has and will retain all ownership rights of its software and of any software developed under this Agreement, including all patent rights, copyrights, trade secrets, trademarks, and service marks.

15. Work Product Ownership. Work Products shall be defined as any deliverable provided to Client as a result of services provided under this Agreement, including but not limited to software applications, drawings, databases, specifications, and any and all deliverables provided by Consultant per this Agreement. Work Products are owned exclusively by Consultant and are protected by United States copyright laws, trademark laws, and applicable international treaties and/or conventions. In consideration of the rights granted herein, Client agrees to retain all Work Product delivered or provided to Client in strict confidence. Client shall not sell, transfer, lease, lend, assign, time-share, sublicense, publish, disclose, display, or otherwise make available Consultant's Product of Work in any form, to any other person or entity other than the parties to this Agreement without the express written permission of Consultant. Client shall secure and protect the Work Product in the same manner and to the same degree it protects its own proprietary information, using no less than a reasonable standard of care. Client shall not decompile or reverse engineer any of Consultant's software that may be contained in Consultant's Work Product. Client shall not make any modifications or derivative works from Work Product.

16. Ownership. All error corrections, enhancements, new releases, and any other Work Product created by Consultant as a result of services provided under this Agreement are and shall remain the exclusive property of Consultant, regardless of whether Client, its employees, or agents may have contributed to the conception, joined in its development, or paid Consultant for the development or use of said Work Product.

17. Confidentiality. All information relating to Client that is known to be confidential or proprietary, or which is clearly marked as such, shall be held in confidence by Consultant and shall not be disclosed or used by Consultant except to the extent that such disclosure or use is reasonably necessary to the performance of Consultant's services. All information relating to Consultant that is known to be confidential or proprietary, or which is clearly marked as such, shall be held in confidence by Client. These obligations of confidentiality shall extend after the termination of this Agreement, but shall not apply with respect to information that is independently developed by the parties, lawfully becomes a part of the public domain, or of which the parties gained knowledge or possession free of any confidentiality obligation.

18. Fees. When applicable to the project, Client shall pay the costs of inspection fees, zoning and annexation application fees, assessment fees, soils engineering fees, soils testing fees, aerial photography fees, and all other fees, permits, bond premiums, title company charges, and reproductions, and all other charges not specifically covered by the terms of this Agreement.

19. Construction Costs. If any opinion is prepared by Consultant as to anticipated construction costs, such opinion represents a judgment as a professional and is supplied for the general guidance of Client. Since Consultant has no control over the cost of labor and material, or over competitive bidding or market conditions, Consultant does not guarantee the accuracy of such opinion as compared to contractor bids or actual cost to Client.

20. Job Site. If the work involves construction services, Client agrees that in accordance with generally accepted construction practices, the construction contractor will be required by Client to assume sole and complete responsibility for job site conditions during the course of construction of the project, including safety of all persons and property and that this requirement shall be made to apply continuously and not be limited to normal working hours. Consultant does not assume responsibility for the safety of persons or property on or about the project site.

20.1 Job Site-Confined Space and/or Permit Required Entry. If confined space and/or permit required entry is required for the services to be provided, Owner/general contractor shall provide subcontractor and Consultant with a completed Confined Space Pre-Entry checklist that complies with 29 CFR 1910.146 and 29 CFR 1926.1200 AA standards for construction as amended and applicable state laws and regulations. Owner/general contractor, at its expense, shall obtain any and all required permits and equipment for such entry. Owner/general contractor shall determine if the job requires anyone to enter manholes, vaults, lift station, piping, tanks or other confined spaces. Before work at a worksite, Owner/general

contractor must ensure that a competent person identifies all confined spaces in which one or more of the persons it directs may work, and identifies each space that is a permit space, through consideration and evaluation of the elements of that space, including testing as necessary. If the workplace contains one or more permit spaces, Owner/ general contractor who identifies, or who receives notice of, a permit space must:

- (1) Inform exposed persons by posting danger signs or by any other equally effective means, of the existence and location of, and the danger posed by, each permit space; and a sign reading “DANGER – PERMIT REQUIRED CONFINED SPACE, DO NOT ENTER” or using other similar language would satisfy the requirement for a sign.
- (2) Inform, in a timely manner and in a manner other than posting, its employees’ authorized representatives and the controlling contractor of the existence and location of, and the danger posed by, each permit space.

If Owner/general contractor determines any person will enter a permit space, that host employer must have a written permit space program that complies with §1926.1204 implemented at the construction site. Contractor shall provide appropriate air monitoring equipment, employee training, permit forms, rescue procedures, personnel, and other means necessary to safely and independently enter confined spaces. The written program and permit must be made available prior to and during entry operations for inspection by person(s) who need to enter the space for work or inspection.

20.2. Job Site-Fall Protection and Rescue Plans. In the event personal fall arrest systems are used, the following rescue considerations shall apply. Owner/general contractor must assure that persons can be promptly rescued or can rescue themselves should a fall occur. The availability of rescue personnel, ladders, or other rescue equipment should be evaluated. In some situations, equipment that allows employees to rescue themselves after the fall has been arrested may be desirable, such as devices that have descent capability. All new persons on site shall be given instructions on the proper use of fall protection devices before they begin work, as well as rescue procedures. The written fall protection plan will be reviewed before work begins on the job site. Fall protection equipment use will be reviewed regularly at the weekly safety meetings.

21. Construction Site Visits. If applicable, Consultant shall make periodic visits to the project site to observe the progress and quality of the executed work and to generally review whether the work is proceeding in accordance with plans and specifications. Consultant shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of work and does not assume responsibility for construction techniques, procedures, sequences and schedules or for the conduct, action, errors or omissions of any construction contractor, subcontractor, or material supplier, their agents or employees.

22. Resident Project Representation. When applicable, and by separate attachment executed by Client and Consultant, Consultant may provide resident project representation under Consultant’s supervision that will be paid for by Client as indicated in such separate agreement and that will be intended to give Client further assurance with regard to the finished work, but will not involve

Consultant in the construction means, methods, techniques, sequences or procedures or safety precautions or programs nor provide to Client any guarantee by Consultant of the accuracy, quality or timeliness of performance by any contractor, subcontractor, or material supplier.

23. Hazardous Materials. In the event that Consultant or any other party encounters asbestos or hazardous or toxic materials at the job site, or should become known in any way that certain materials may be present at the job site or any adjacent areas that may affect the performance of Consultant’s services, Consultant may, at its option and without liability for consequential or any other damages, suspend performance of services on the project until Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the asbestos or hazardous or toxic material, and warrant that the job site is in full compliance with applicable laws and regulations.

24. Assignment/Third Party Reliance/Certification. Neither Client nor Consultant shall assign its interest in this Agreement without the written consent of the other. The services to be provided pursuant to this Agreement are being performed solely for the benefit of Client, and no benefit is meant to be conferred upon any person or entity not a party to this Agreement, and no such person or entity should rely upon Consultant’s performance of those services to Client; and no claim against Consultant shall accrue to any contractor, subcontractor, consultant, engineer, supplier, fabricator, manufacturer, lender, tenant, surety, homeowner’s association or any other third-party as a result of this Agreement or the performance or non-performance of services on the project. Consultant shall not be required to sign any documents, no matter by whom requested, that would result in Consultant’s having to certify, guaranty, or warrant the existence of conditions that Consultant cannot ascertain.

25. Client Representative. Client shall designate an individual with authority to act on behalf of Client as to all aspects of the project, shall examine and respond promptly to submissions from Consultant, shall give prompt written notice to Consultant if Client becomes aware of any defect in the project, and shall otherwise fully cooperate as may be required or appropriate in connection with the project.

26. Equal Opportunity. Consultant shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a), and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

27. Severability. Should any provision herein be found or deemed to be invalid, this Agreement shall be construed as not containing such provision and all other provisions which are otherwise lawful shall remain in full force and effect, and to this end, the provisions of this Agreement are declared to be severable.

**Exhibit B – Scope of Work**

GENERAL BACKGROUND

The project area is generally described as roadway extensions within the Moberly Industrial Park. The Industrial Park is generally located between Business 63 on the east, Buchanan Street on the west, Fowler Road on the south, and County Road 1325 on the North. This project focuses on providing plans and bidding documents for the extension of McKeown Road, extension of Fowler Road, and extension of Robertson Road as shown in Figure 1 below. It is anticipated that the three intersections (Fowler/Buchanan, Fowler/Robertson, & McKeown/Robertson) will all be stop controlled intersections. All roadways will be constructed as ditched roads with open drainage.

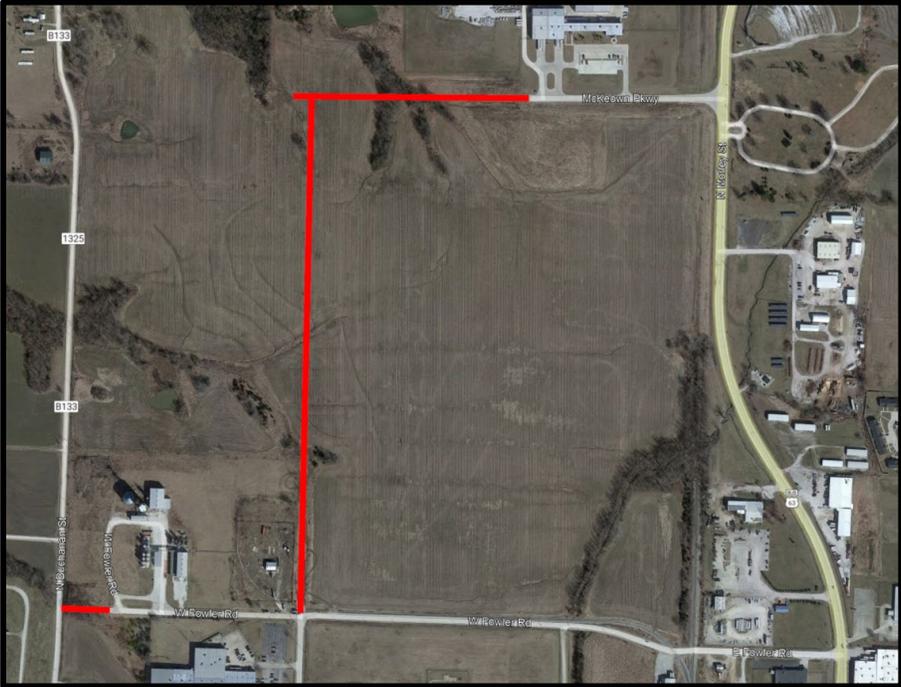


Figure 1: Industrial Park Street Layout

Services will include topographic and boundary survey, the production of Preliminary, Right-of-Way and Final plans, development of legal descriptions for the easement/ROW acquisitions, and utility coordination. Bidding assistance and construction phase services are also included in this scope of work.

There is a rail spur near the Fowler/Robertson intersection. It is anticipated that the City will acquire all current railroad right-of-way and that no railroad coordination or rail design is included in this scope of services.

SCOPE OF SERVICES

- 1. DATA COLLECTION AND SURVEYS
  - 1.1. Project kickoff meeting at City offices and site visit. (assumes 2 attending)

- 1.2. Coordinate with Subconsultant for geotechnical services.
- 1.3. The Engineer shall perform the field survey of existing topography to create project base mapping including the following tasks:
  - 1.3.1. Research of existing survey deeds and horizontal and vertical control points.
  - 1.3.2. Set project horizontal and vertical control/benchmarks. Project control will be set using GPS technology.
  - 1.3.3. Field survey existing topographic features, including pavement edges, drainage structures, retaining walls, landscaping, private entrances and other features to develop the project mapping.
  - 1.3.4. Field locate visible existing utilities in the project area. Includes call for field locates to MO One-Call and survey of marked underground utilities. Does not guarantee that utilities accurately locate their facilities.
  - 1.3.5. Develop project base mapping from field surveys.
  - 1.3.6. Perform additional survey as needed based on field check of base maps.
- 1.4. The Engineer shall perform the boundary surveys including the following tasks:
  - 1.4.1. Field locate and survey existing property corners.
  - 1.4.2. Establish existing Right-of-Way and adjacent property lines from plats, warranty deeds, recorded surveys to allow easement needs to be determined.
  - 1.4.3. Develop project base mapping from boundary surveys for property lines.
- 1.5. Perform a field check of the base maps to check accuracy and appropriate level of detail for design purposes.
- 1.6. Project administration, coordination, and invoicing.
2. PRELIMINARY DESIGN SERVICES
  - 2.1. Develop roadway alignment and geometry for McKeown Parkway extension to Robertson Road.
  - 2.2. Develop roadway profile for McKeown Parkway extension to Robertson Road.
  - 2.3. Develop roadway alignment and geometry for Robertson Road from McKeown Parkway to Fowler Road.
  - 2.4. Develop roadway profile for Robertson Road from McKeown Parkway to Fowler Road.
  - 2.5. Develop roadway alignment and geometry for Fowler Road extension to Buchanan Street.
  - 2.6. Develop roadway profile for Fowler Road extension to Buchanan Street.
  - 2.7. Develop culvert/inlet locations, drainage areas, and perform pipe design calculations and pipe profile development based on manning's equation via the use of spreadsheets based on APWA and City of Moberly Storm Water Ordinance criteria.
  - 2.8. Develop preliminary plans for the proposed improvements. Construction drawings will be prepared on 22" x 34" size sheets. The scale shall be as determined to be appropriate but will likely be 1"=20'. The preliminary submittal is anticipated to include:
    - 2.8.1. Cover Sheet
    - 2.8.2. General Notes/Survey Control (1 sheet assumed)
    - 2.8.3. Typical Sections (1 sheet assumed)
    - 2.8.4. Roadway Plan and Profile Sheets (3 sheets assumed)
    - 2.8.5. Storm Sewer Profile Sheets (2 sheets assumed)
    - 2.8.6. Driveway Profiles (1 sheet assumed)
    - 2.8.7. Cross Sections (4 sheets assumed)

- 2.9. Calculate quantities, estimate of probable construction cost and tabulation of quantities.
- 2.10. Submit a PDF of preliminary plans to City.
- 2.11. Prepare and submit Request for Environmental Review (RER) to MoDOT as necessary.
- 2.12. Hold a meeting at the City offices to review plans. Compile and distribute minutes. (assumes 2 attending)
- 2.13. Coordinate with City consultant for stormwater masterplan.
- 2.14. No detention calculations or design is included in this scope of services
- 2.15. No coordination with the railroad or rail design is included in this scope of services. It is anticipated that the city will fully acquire existing railroad property separate from this scope of services.
- 2.16. Internal QA/QC reviews.
- 2.17. Project administration, coordination, and invoicing.
3. RIGHT OF WAY DESIGN SERVICES
  - 3.1. Address comments from the City, MoDOT, EDA, DED, and utility companies and develop right-of-way plans. The plans are anticipated to include:
    - 3.1.1. Cover Sheet
    - 3.1.2. General Notes/Survey Control (1 sheet assumed)
    - 3.1.3. Typical Sections (2 sheets assumed)
    - 3.1.4. Right of Way/Easement Plan (1 sheet assumed)
    - 3.1.5. Roadway Plan and Profile Sheets (3 sheets assumed)
    - 3.1.6. Storm Sewer Profile Sheets (2 sheets assumed)
    - 3.1.7. Driveway Profiles (1 sheet assumed)
  - 3.2. Cross Sections (4 sheets assumed)
  - 3.3. Develop permanent and temporary easement and right of way linework as necessary.
  - 3.4. Update and submit RER to MoDOT as necessary.
  - 3.5. Revise plans based on MoDOT Environmental Section review as necessary.
  - 3.6. Submit a PDF of right of way plans to City and MoDOT as necessary.
  - 3.7. Prepare LPA environmental documents and permits as required. (assumes Land Disturbance Permit, USACE Nationwide Permit and Section 106 Permit).
  - 3.8. Prepare right of way and easement documents including legal descriptions and exhibits as necessary. (assumes 3 tracts)
  - 3.9. Prepare A-Date request for City to submit to MoDOT as necessary.
  - 3.10. Internal QA/QC reviews.
  - 3.11. Project administration, coordination, and invoicing.
4. FINAL DESIGN SERVICES
  - 4.1. Address comments from the City, MoDOT, EDA, and DED and develop final plans. The plans are anticipated to include:
    - 4.1.1. Cover Sheet
    - 4.1.2. General Notes/Survey Control (1 sheet assumed)
    - 4.1.3. Coordinate Points (1 sheet assumed)
    - 4.1.4. Typical Sections (1 sheet assumed)
    - 4.1.5. Construction Details (1 sheet assumed)
    - 4.1.6. Right of Way/Easement Plan (1 sheet assumed)
    - 4.1.7. Roadway Plan and Profile Sheets (3 sheets assumed)

- 4.1.8. Intersection Details (1 sheet assumed)
- 4.1.9. Storm Sewer Profiles (2 sheets assumed)
- 4.1.10. Driveway Profiles (1 sheet assumed)
- 4.1.11. Erosion Control Plan (3 sheets assumed)
- 4.1.12. Traffic Control Plan (1 sheet assumed)
- 4.1.13. Traffic Control Details (1 sheet assumed)
- 4.1.14. Signing and Pavement Marking Plan (2 sheets assumed)
- 4.1.15. Cross Sections (4 sheets assumed)
- 4.1.16. No lighting plans are included in this scope of services
- 4.1.17. No traffic signal plans are included in this scope of services
- 4.1.18. No pavement jointing plan is included in this scope of services
- 4.2. Calculate quantities, estimate of probable cost and tabulation of quantities.
- 4.3. Develop job special provisions and front end documents. Assumes the use of MoDOT standard specifications and bidding documents edited by the Engineer.
- 4.4. Submit plans, specifications and bid documents to the City, MoDOT, EDA & DED as necessary. Provide the plans in PDF format and specifications in PDF and Microsoft Word format.
- 4.5. Hold a meeting at the City offices to review plans, specifications and cost estimates. Compile and distribute minutes. (assumes 2 attending)
- 4.6. Revise documents to incorporate modifications from negotiations with property owners and review comments from the City.
- 4.7. Submit final signed and sealed plans to the City. The plans will be submitted as PDFs.
- 4.8. Internal QA/QC reviews.
- 4.9. Project administration, coordination, and invoicing.
- 5. BIDDING SERVICES
  - 5.1. Request authority to advertise from MoDOT, DED, and EDA.
  - 5.2. Assist the City with advertising the Advertisement for Bids in local newspaper. The City is to pay for all advertising fees.
  - 5.3. Administer the distribution of bidding documents to prospective bidders. Engineer will use a print shop such as American Document Solutions of Columbia, Missouri, to print and ship documents and send out addenda. Engineer will not sell documents or provide refunds for returned documents.
  - 5.4. Address bidder questions regarding the plans and contract documents.
  - 5.5. Conduct prebid meeting. Compile and distribute minutes. (assumes 2 attending)
  - 5.6. Prepare and issue addenda and provide supplemental information or clarification, as appropriate, to interpret, clarify or expand the bidding documents to all prospective bidders during the bidding process. (assumes 1 addendum)
  - 5.7. Facilitate bid opening, prepare the bid tabulation sheets, assist the City in evaluating the bids and the contract award. (assumes 2 attending)
  - 5.8. Submit request for concurrence in award to MoDOT, EDA and DED.
  - 5.9. Assist the City with executing the construction contract between the City and the awarded Contractor.
  - 5.10. Project administration, coordination, and invoicing.
- 6. CONSTRUCTION PHASE SERVICES

- 6.1. Conduct preconstruction conference with site visit to follow. Compile and distribute meeting minutes. (assumes 2 attending)
- 6.2. Submittal and shop drawing reviews.
- 6.3. Provide construction administration, coordination, and documentation per MoDOT LPA requirements. (assumes 22 weeks duration, 12 hours per week)
- 6.4. Perform full time construction observation per MoDOT LPA requirements. (assumes 22 weeks duration, 40 hours per week including travel time, plus 15% overtime)
- 6.5. Monthly on-site progress meetings and quality assurance reviews. (assumes 6 meetings/trips throughout project duration)
- 6.6. Office assistance with plan/specification clarifications during construction.
- 6.7. Conduct final walkthrough with City and Contractor. (assumes 3 attending)
- 6.8. Assist the City in project closeout per MoDOT LPA, EDA and DED requirements.
- 6.9. Provide bi-monthly project updates to the City during construction.
- 6.10. Project administration, coordination, and invoicing.

# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #4.

Department: Comm. Dev.

Date: November 6, 2023

**Agenda Item:** An Application For A Conditional Use Permit Submitted By Outline & Associates On Behalf Of The Mackenzie Riley For A Proposed Car Wash Facility Located At 1008 W. Hwy 24.

**Summary:** The Planning & Zoning Commission approved this application at the October 30, 2023 meeting. Attached is a copy of the application, staff report and Conditional Use Permit.

**Recommended Action:** Please direct staff to bring this forward to the November 20, 2023 regular City Council meeting for final approval.

**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 checked="" type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Brubaker</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>Lucas</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>Jeffrey</b>	___	___
<input checked="" type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice		Passed	Failed
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____			

**CITY OF MOBERLY  
CONDITIONAL USE PERMIT APPLICATION**

Return Form To:  
Zoning Administrator  
City of Moberly  
101 West Reed Street  
Moberly, MO 65270-1551  
(660) 263-4420  
(660) 263-9398 (fax)

For Office Use Only  
  
Deposit: \_\_\_\_\_  
Date Filed: \_\_\_\_\_  
Date Advertised: \_\_\_\_\_  
Date Notices Sent: \_\_\_\_\_  
Public Hearing Date: \_\_\_\_\_

---

**APPLICANT INFORMATION:**

Applicant: Outline & Associates, Devin Snodgrass Phone: 660.998.4288  
Address: 110 N 5th Street, Moberly MO Zip: 65270  
Owner: Mack Riley Enterprise, LLC Phone: 660.833.3884  
Address: 1070 County Road 2607, Moberly MO Zip: 65270

**PROPERTY INFORMATION:**

Location of Property: 1008 W 24 Hwy  
Legal Description: as described in Randolph County Records Deed Book 932, Page 2139

Present Zoning Classification: B-3, General Commercial District Acreage: +/- 1.5 Acres

Present Use of Property: Vacant Lot w/ Existing Drive Entrances & Parking

Proposed Land Use Activity: Commercial B-Business Use for a new Car Wash Facility

Article, Section and sub-section (if applicable) allowing for said special use to be applied for: \_\_\_\_\_

**ADJACENT ZONING AND LAND USE:**

	<u>Land Use</u>	<u>Zoning</u>
North	<u>MO Hwy 24 / Commerical</u>	<u>B-3</u>
South	<u>Sparks Ave / SF Residence &amp; Ag Field</u>	<u>B-3 &amp; M-1</u>
East	<u>N Buchanan St / Commerical</u>	<u>B-3</u>
West	<u>MO Hwy 24 / Commercial</u>	<u>B-3</u>

Should this special use be valid only for a specific time period? Yes \_\_\_\_\_ No X

If Yes, what length of time? \_\_\_\_\_

<b>DOES THE PROPOSED CONDITIONAL USE MEET THE FOLLOWING STANDARDS? IF YES, ATTACH A SEPARATE SHEET EXPLAINING WHY.</b>	Yes	No
The proposed conditional use complies with all applicable provisions of the regulations, including intensity of use regulations, yard regulations and use limitations?	X	
The proposed conditional use at the specified location will not adversely affect the welfare or convenience of the public?	X	
The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located?	X	
The location and size of the conditional use, the nature and intensity of the operation involved or conducted in connection with it, and the location of the site with respect to streets giving access to it have been planned so that the conditional use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations?	X	
Off-street parking and loading areas will be provided in accordance with the standards set forth in the zoning regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect?	X	
Adequate utility, drainage, and other such necessary facilities will be provided?	X	
Adequate access roads or entrance and exit drives will be provided and designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys?	X	
Adjoining properties and the general public will be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises?	X	

**ATTACHMENTS REQUIRED:**

1. A site plan as specified in Section of the Zoning Regulations as well as any other information, which would be helpful to the Planning and Zoning Commission in consideration of the application.
2. List of property owners located within:
  - A. 185 feet of the property if the proposed Special Use is located within the city's corporate limits;
  - B. 1,000 feet of the property if the proposed Special Use is adjacent to the city's corporate limits.



Applicant's Signature

09 / 27 / 2023

Date

City of *Moberly!*

**Memorandum**

**To:** *Planning and Zoning Commission*

**From:** *Planning Staff*

**Subject:** *Site Plan Review Application 1008 W Highway 24*

**Meeting:** *October 30, 2023*

**Public Hearing to consider:**

Notice of Public Hearing for a site plan and conditional use review application submitted by Outline and Associates on behalf of Mackenzie Riley for improvements to the site located at 1008 W Highway 24. This property is currently zoned B-3 (General Commercial District).

**Comments:**

**Location:** 1008 W Highway 24

**Zoning Compatibility:** Use is compatible with the district. Requires Conditional Use

**Intended Use:** Manual multi-bay Car Wash Facility with potential of automatic bay in future.

**Landscaping design:** Dumpster Screening is provided. Adjacent to commercial, no other buffering required. Plan is to keep and maintain existing green space that is not needed for driving area and use existing hard surfaces for vacuum bays.

**Public areas:** (46-177) Parking – Adequate parking is provided currently with additional planned parking stalls to be included with future automatic bay expansion.

**Submission requirements:** Site Plan Review associated with Improvements all submitted. Conditional Use for the property has been submitted in accordance with zoning regulations.

**City Staff Review:**

City Staff is supportive of this request for a Car Wash Facility at 1008 W Highway 24. Staff Review has brought up the following two recommendations: Prevent stacking of vehicles at peak time from stacking on Highway 24; and also we have made the owners aware of the concern with the private lateral sewer line that runs several hundred feet across the adjacent property to the east and what the issues could become if the line were to have problems. Recommendations have been made and considered by the developer.

Conditional Use Reviews do require additional approval by the City Council.

Respectfully Submitted Aaron Decker

**CITY OF MOBERLY, MISSOURI  
CONDITIONAL USE PERMIT  
REASONS FOR DETERMINATION**

ON OCTOBER 30, 2023, THE CITY OF MOBERLY PLANNING AND ZONING COMMISSION AT ITS REGULAR MEETING, RECOMMENDED APPROVAL (ACTION: APPROVAL, CONDITIONAL APPROVAL, DENIAL) OF A CONDITIONAL USE PERMIT FOR A(N) CAR WASH FACILITY BE LOCATED AT 1008 WEST HIGHWAY 24, MOBERLY, MO (ADDRESS OR LOCATION).

THE CITY COUNCIL WILL CONSIDER THE RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION AT THE NOVEMBER 6, 2023 MEETING OF THE MOBERLY CITY COUNCIL.

IN RECOMMENDING APPROVAL (ACTION) OF THIS CONDITIONAL USE PERMIT, THE PLANNING AND ZONING COMMISSION CONSIDERED ALL STANDARDS LISTED IN THE ZONING REGULATION, AND ALL OTHER CONDITIONS LISTED FOR THAT USE IN OTHER SECTIONS OF THESE REGULATIONS. IN ADDITION, THE PLANNING AND ZONING COMMISSION FOUND THAT THE PROPOSED USE DID (DID/DID NOT) PROVIDE SAFEGUARDS TO ASSURE ITS COMPATIBILITY WITH THE SURROUNDING AREA.

CONDITIONS (IF ANY):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

  
CHAIRPERSON

  
ZONING ADMINISTRATOR

# Conceptual Site Plan for 1008 West 24 Highway

Moberly, Randolph County, Missouri  
September 2023



09/25/2023

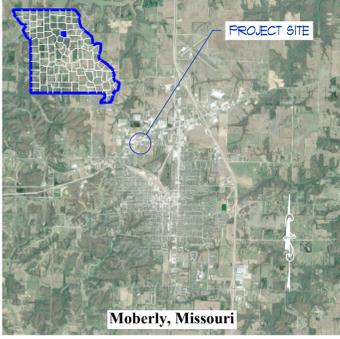
**CROCKETT**  
ENGINEERING CONSULTANTS

1000 W. Nifong Blvd., Bldg. 1  
Columbia, Missouri 65203  
(313) 447-2492  
www.crockettengineering.com

Crockett Engineering Consultants, LLC  
Missouri Certificate of Authority  
#2000151301



OUTLINE & ASSOCIATES  
DESIGN & PLANNING CONSULTANTS  
THIS DRAWING IN NO WAY REPRESENTS A FULL  
ARCHITECTURAL AND/OR ENGINEERING SERVICE.  
THIS DRAWING IS FOR REFERENCE ONLY  
AND TO BE USED AS A GUIDE  
IN THE DESIGN/DEVELOPMENT PROCESS.

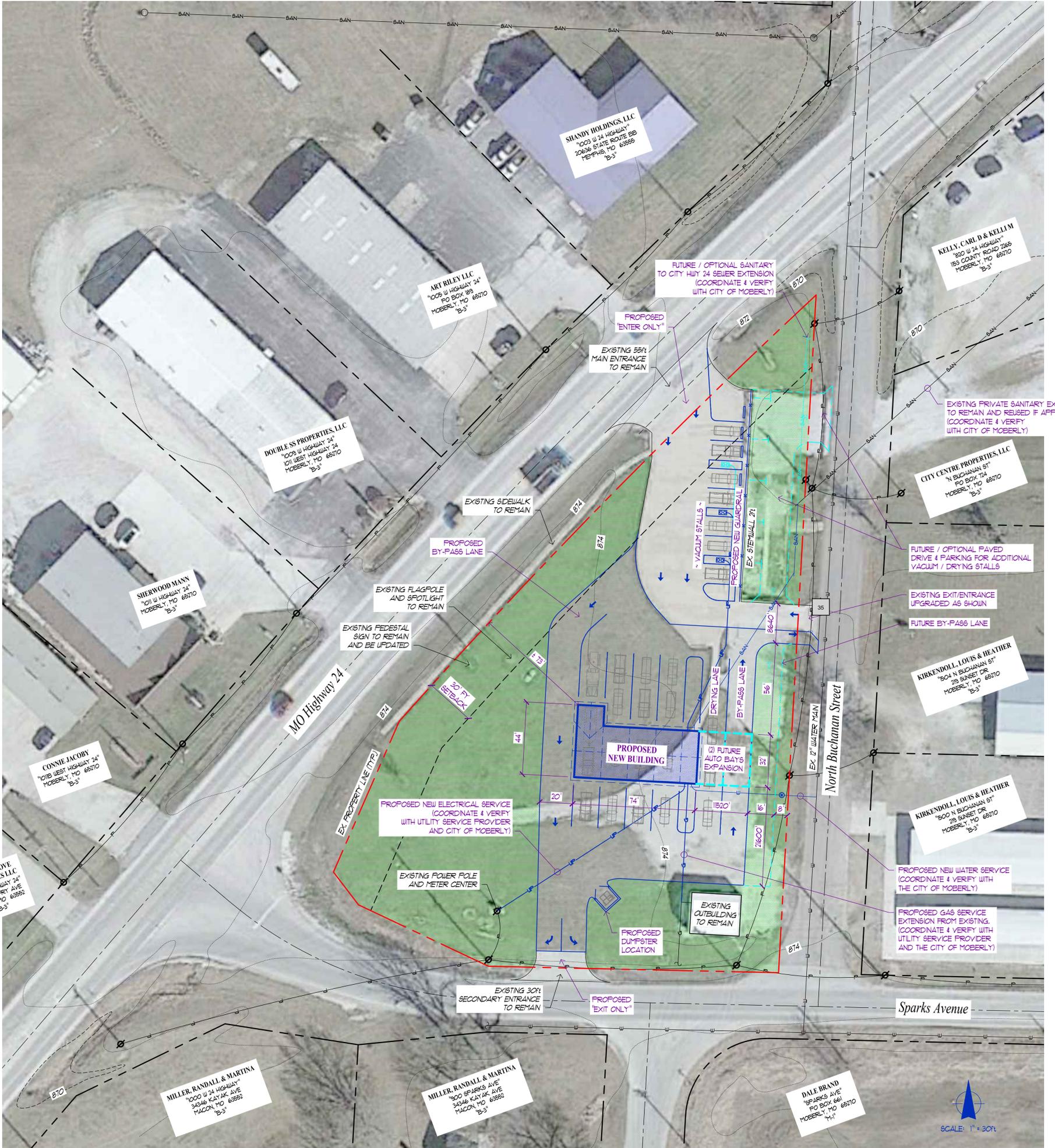


### Site Plan Notes:

- For reference only, refer to survey(s) filed for record in Randolph County, Missouri prepared by a registered professional land surveyor for all property boundary, easements, utilities, and restrictions. All information shown on this drawing was based off such represented by City of Moberly's Digital Mapping System. All items, whether shown or not, to be field verified, coordinated, and approved by the City of Moberly and/or Utility Provider prior to any improvements.
- Currently the property consists of Vacant Lot (mostly remains of Demolished/Removed Building Floor Slab / Foundation and Entrances/Parking Lot). Property has very little to no change in elevation in any direction and currently sheet drains towards drainage ditches along perimeter adjacent ROW's. These sections of Highway 24, Sparks Avenue, and North Buchanan Street do not currently have Curb & Gutter and Stormwater is currently controlled via Drainage Ditchline and Culverts/Area Inlets.
- Adjacent properties do not currently have sidewalks along within 300 feet of this property. An Existing Sidewalk is currently in place along most of the Highway 24 Frontage and is proposed to remain in place.
- Owner's intent is to use Exterior Commercial Trash Containers and install a Dumpster / Enclosure meeting screening requirements as shown.
- Owner's intent is to install new Power Supply from adjacent Pole underground to Building as directed by Ameren Missouri and The City of Moberly.
- Owner's intent is to extend the existing Gas Service as shown and to be coordinated/approved by Ameren Missouri and The City of Moberly.
- Owner's intent is to install new Water Service from adjacent Main as shown and is to be coordinated/approved by the City of Moberly.
- Owner's intent is to connect new Sanitary Sewer Service to the Existing Private Sanitary Service on Site OR extend to future/optional City Sewer Extension as shown and coordinated/approved by the City of Moberly.
- Building to discharge roof drainage at surface. Proposed New Paving to sheet drain towards adjacent Existing Streets and/or dedicated Drainage Greenspaces/Landscaping.
- Proposed Building to be a Symmetrical Building with 12-16 Foot Eave Heights and 3:12 min. Roof Pitch: Masonry/Metal/PVC Walls, Asphalt/Metal Roofing, and Aluminum Gutters & Downspouts.
- Owner's intent is to install wall-mounted LED Light Fixtures to illuminate Lot at perimeter of building and reuse Existing Pole Light for Vacuum Area.
- Owner's intent is to Salvage and Re-use Existing Pedestal Sign along 24 and update accordingly.

### Site Information:

Property Address:	1008 W 24 Hwy Moberly, Randolph County, Missouri	
Property Owner:	Mack Riley Enterprise, LLC 1070 County Road 2607 Moberly, Missouri 65270	
Code in Effect:	IBC 2021, City of Moberly	
Zoning:	B-3, General Commercial District	
Lot Area:	±1.5 Acres	
Setbacks:	Front Yard:	30 Feet
	Side Yard:	None (5 Feet if abutting Residential District)
	Rear Yard:	None (15 Feet if abutting Residential District)
Intensity Regulations:	Min. Lot Area:	6,000 sq.ft.
	Min. Lot Width:	60 feet
	Lot Coverage:	None
Height Regulations:	50 Feet (Zoning)	
Proposed Building:	±2,560 sq.ft. Single Story Bldg. / Type 5B, Non-Sprinklered	
Proposed Use & Occupancy:	Commercial: B-Business (Carwash Facility)	
Allowable Heights & Areas:	2 Stories (40 feet) / 9,000 sq.ft. Floor Area	
Design Loading:	1 Occupant / 150 sq.ft.	
Exits Required:	1 Exit Required	
Plumbing Facilities Req'd:	WC's = (1) Uni-Sex Min. (OL-25) (None Proposed) Lav's = (1) Uni-Sex Min. (OL-25) (None Proposed) (1) Service Sink (1) Drinking Fountain or Water Dispenser/Bottled Water (None Proposed)	
Lot Area Calculations:	Total Lot Area:	± 68,820 sq.ft. ± 1.58 acres
	Existing Outbuilding:	± 750 sq.ft. ± 0.02 acres
	Proposed Building:	± 2,560 sq.ft. ± 0.06 acres
	Existing Paving:	± 8,480 sq.ft. ± 0.19 acres
	Proposed Additional Paving:	± 20,375 sq.ft. ± 0.47 acres
	Impervious Area:	± 32,165 sq.ft. ± 0.74 acres
	Pervious Area:	± 36,655 sq.ft. ± 0.84 acres (53% of Site)
	Future/Opt. By-Pass Lane:	± 2,350 sq.ft. ± 0.05 acres
	Future/Opt. Add'l V&D:	± 6,110 sq.ft. ± 0.14 acres
Parking Requirements:	(3) Holding Spaces for each Washing Stall (2) Drying Spaces fore each Washing Stall	



# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #5.

Department: Comm. Dev.

Date: November 6, 2023

**Agenda Item:** An Application A Text Amendment Application Submitted By City Of Moberly For Clarification And Relocation Of Regulations Related To Driveway Construction In Residential Neighborhoods.

**Summary:** City Staff is recommending relocation of the driveway construction dimensions in residential neighborhoods to be placed into Chapter 46 (Zoning) instead of its current location in Chapter 40 (Traffic). This more aligns with the land use regulations of chapter 46 and also modifications based on today's use of land were needed. Often times there are requests for expanded driveways and or requests outside the allowed code language. Placing them into Chapter 46 allows for review by both Zoning Board and Board of Adjustment if necessary, with respect to the changes.

The Planning & Zoning Commission recommended approval for the request of this text amendment.

**Recommended Action:** Direct Staff to bring forward to the November 20, 2023 regular City Council meeting for final approval.

**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 checked="" type="checkbox"/> Staff Report	<input type="checkbox"/> Proposed Ordinance	M___ S___ <b>Brubaker</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>Lucas</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>Jeffrey</b>	___	___
<input checked="" 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

CITY OF MOBERLY, MISSOURI  
ZONING & SUBDIVISION TEXT AMENDMENT APPLICATION

Return Form to:  
Zoning Administrator  
City of Moberly  
101 West Reed Street  
Moberly, MO 65270-1551  
(660) 263-4420  
(660) 263-9398 (fax)

For Office Use Only:  
Filing Fee: \_\_\_\_\_  
Date Advertised: \_\_\_\_\_  
Date Notices Sent \_\_\_\_\_  
Public Hearing Date: \_\_\_\_\_

APPLICANT INFORMATION:

Applicant: City of Moberly Phone: 660-269-7642  
Address: 101 W Reed St. Zip: \_\_\_\_\_  
Owner: \_\_\_\_\_ Phone: \_\_\_\_\_  
Address: \_\_\_\_\_ Zip: \_\_\_\_\_

TEXT AMENDMENT PROPOSED:

Amendment Proposed to (Check One):

City Zoning Regulations      \_\_\_\_\_ City Subdivision Regulations  
 Growth Area Subdivision Regulations

Section to Be Amended:      Article IV      Section 176

Present Text: (g) - unused  
\_\_\_\_\_  
\_\_\_\_\_

Proposed Text: (g) ~~Driveways & Driveway Entrances in Residential Zones.~~  
A Driveway... "See Attached Email"  
\_\_\_\_\_  
\_\_\_\_\_

Reason for Amendment: Reocate Driveway size requirements from  
Chapter 40 to Chapter 46.  
\_\_\_\_\_  
\_\_\_\_\_

Attach additional sheets as needed.



City of *Moberly!*

**Memorandum**

**To:** *Planning and Zoning Commission*

**From:** *Planning Staff*

**Subject:** *Text Amendment Application*

**Meeting:** *October 30, 2023*

**Public Hearing to consider:**

**Notice of Public Hearing for a Text Amendment application submitted by City of Moberly for clarification and relocation of regulations related to Driveway construction in residential neighborhoods.**

**Comments:**

Existing Code:

Section 40-500 Parking.

(b) Definitions. For this section, the term “driveway” means that part of the passage located on private property that provides vehicular ingress and egress to a property fronting on a public street. Driveways shall be constructed of a hard-paved surface in subdivision or other areas were required. Such a driveway shall not exceed the following maximum width:

- 1) property frontage of up to 50 feet the maximum width for one driveway shall be 12 feet.
- 2) property frontage of over 50 feet to 75 feet maximum width one driveway 22 feet.
- 3) property frontage of over 75 feet maximum width 24 feet.

Proposed Code:

In section 40-500. Remove the following:

(b) Definitions. For this section, the term “driveway” means that part of the passage located on private property that provides vehicular ingress and egress to a property fronting on a public street. Driveways shall be constructed of a hard-paved surface in subdivision or other areas were required. ~~*Such a driveway shall not exceed the following maximum width:*~~

- ~~*1) property frontage of up to 50 feet the maximum width for one driveway shall be 12 feet.*~~
- ~~*2) property frontage of over 50 feet to 75 feet maximum width one driveway 22 feet.*~~
- ~~*3) property frontage of over 75 feet maximum width 24 feet.*~~

Insert at end of paragraph: *Such Driveways shall not exceed the maximum width allowed in section 46-176.*

Insert the following into Chapter 46. Article IV. Section 176

(g) Driveways and Driveway Entrances in Residential Zones. A Driveway in a residential zone connected to a street shall be paved with a hard surfacing and shall have a minimum width of 12 feet. The maximum width for residential driveways connected to a street shall be the lesser of the following:

- 1) 40 percent of the frontage of the property facing that street for access.
- 2) 30 feet in width.

**City Staff Review:**

**City Staff is recommending relocation of the driveway construction dimensions in residential neighborhoods to be placed into Chapter 46 (Zoning) instead of its current location in Chapter 40 (Traffic). This more aligns with the land use regulations of chapter 46 and also modifications based on today's use of land were needed. Often times there are requests for expanded driveways and or requests outside the allowed code language. Placing them into Chapter 46 allows for review by both Zoning Board and Board of Adjustment if necessary with respect to the changes.**

**Text Amendments do require additional approval by the City Council.**

---

Respectfully Submitted Aaron Decker

## Aaron Decker

---

**From:** Randall Thompson  
**Sent:** Monday, October 2, 2023 11:30 AM  
**To:** Aaron Decker; Tom Sanders; Carla Beal  
**Cc:** David Moran  
**Subject:** RE: Code Changes for Driveways in Residential Zones

Let me know when this is ready to go to council.

### Randall Thompson

City Attorney  
 City of Moberly  
 101 West Reed Street  
 Moberly, Missouri 65270  
 Office: (660) 269-8705  
[cityattorney@cityofmoberly.com](mailto:cityattorney@cityofmoberly.com)

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**From:** Aaron Decker <adecker@cityofmoberly.com>  
**Sent:** Monday, October 2, 2023 9:06 AM  
**To:** Tom Sanders <tsanders@cityofmoberly.com>; Randall Thompson <cityattorney@cityofmoberly.com>; Carla Beal <cbeal@cityofmoberly.com>  
**Cc:** David Moran <dmoran@cityofmoberly.com>  
**Subject:** Code Changes for Driveways in Residential Zones

All,

After discussion and research into other communities, the following is a recommendation for changing the language and location of the driveway requirements in our City Code to reflect more modern builds and infill development along with relocating the code so that Board of Variance can be utilized if necessary in the future.

Existing Code:

Section 40-500 Parking.

(b) Definitions. For this section, the term "driveway" means that part of the passage located on private property that provides vehicular ingress and egress to a property fronting on a public street. Driveways shall be constructed of a hard-paved surface in subdivision or other areas were required. Such a driveway shall not exceed the following maximum width:

- 1) property frontage of up to 50 feet the maximum width for one driveway shall be 12 feet.
- 2) property frontage of over 50 feet to 75 feet maximum width one driveway 22 feet.
- 3) property frontage of over 75 feet maximum width 24 feet.

Changes to code:

In section 40-500. Remove the following:

(b) Definitions. For this section, the term “driveway” means that part of the passage located on private property that provides vehicular ingress and egress to a property fronting on a public street. Driveways shall be constructed of a hard-paved surface in subdivision or other areas were required. ~~Such a driveway shall not exceed the following maximum width:~~

- ~~1) property frontage of up to 50 feet the maximum width for one driveway shall be 12 feet.~~
- ~~2) property frontage of over 50 feet to 75 feet maximum width one driveway 22 feet.~~
- ~~3) property frontage of over 75 feet maximum width 24 feet.~~

Insert at end of paragraph: Such Driveways shall not exceed the maximum width allowed in section 46-176.

Insert the following into Chapter 46. Article IV. Section 176

(g) Driveways and Driveway Entrances in Residential Zones. A Driveway in a residential zone connected to a street shall be paved with a hard surfacing and shall have a minimum width of 12 feet. The maximum width for residential driveways connected to a street shall be the lesser of the following:

- 1) 40 percent of the frontage of the property facing that street for access.
- 2) 30 feet in width.

Please review and respond. I will include the new language for Chapter 46 as a text amendment to Planning and Zoning this month.....

Aaron Decker  
City of Moberly

CITY OF MOBERLY, MISSOURI  
ZONING & SUBDIVISION TEXT AMENDMENT PERMIT  
REASONS FOR DETERMINATION

Submit Questions To:  
Zoning Administrator  
City of Moberly  
101 West Reed Street  
Moberly, MO 65270-1551  
(660) 263-4420  
(660) 263-9398 (fax)

For Office Use Only:

Date of Action: October 30, 2023

Action: APPROVAL

ON OCTOBER 30, 20 23, THE CITY OF MOBERLY PLANNING AND ZONING COMMISSION AT ITS REGULAR MEETING, RECOMMENDED APPROVAL (ACTION: APPROVAL, DENIAL) OF A TEXT AMENDMENT REQUEST MODIFIED FROM A(N) FORMER TEXT OF REMOVE THE FOOLOWING IN SECTION 40-500: (b) Definitions. For this section, the term "driveway" means that part of the passage located on private property that provides vehicular ingress and egress to a property fronting a public street. Driveways shall be constructed of a hard-paved surface in subdivision or other areas were required. Such a driveway shall not exceed the following maximum width:

- 1) ~~property frontage of up to 50 feet the maximum width for one driveway shall be 12 feet.~~
- 2) ~~property frontage of over 50 feet to 75 feet maximum width one driveway 22 feet.~~
- 3) ~~property frontage of over 75 feet maximum width 24 feet.~~

Insert at end of paragraph: Such Driveways shall not exceed the maximum width allowed in section 46-176.. TO A (N) PRESENT TEXT OF Insert the following into Chapter 46. Article IV. Section 176

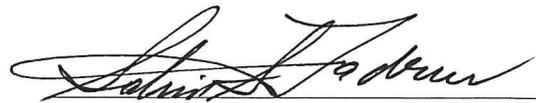
(g) Driveways and Driveway Entrances in Residential Zones. A Driveway in a residential zone connected to a street shall be paved with a hard surfacing and shall have a minimum width of 12 feet. The maximum width for residential driveways connected to a street shall be the lesser of the following:

- 1) 40 percent of the frontage of the property facing that street for access.
- 2) 30 feet in width.

THE CITY COUNCIL WILL CONSIDER THE RECOMMENDATION OF THE PLANNING AND ZONING COMMISSION AT THE NOVEMBER 6, 2023 MEETING OF THE MOBERLY CITY COUNCIL.

IN RECOMMENDING APPROVAL (ACTION) OF THIS ZONING & SUBDIVISION TEXT AMENDMENT REQUEST, THE PLANNING AND ZONING COMMISSION CONSIDERED ALL STANDARDS LISTED IN THE ZONING REGULATION, AND ALL OTHER CONDITIONS LISTED FOR THAT USE IN OTHER SECTIONS OF THESE REGULATIONS.

CONDITIONS (IF ANY): \_\_\_\_\_

  
CHAIRPERSON

  
ZONING ADMINISTRATOR



# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #6.

Department: Community Development  
Date: November 6, 2023

**Agenda Item:** Receipt of Proposal For In-Fill Housing At 924 Bond St. and 812 W Reed St. From Spillman Studio Out Of Columbia.

**Summary:** Attached is the proposal that was received on October 31, 2023 for the in-fill housing at 924 Bond St. from Spillman Studio.

**Recommended Action:** Direct staff to bring forward to the November 20, 2023 regular City Council meeting for final approval.

**Fund Name:** N/A

**Account Number:** N/A

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

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



6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002

**Proposed redevelopment:**

924 Bond Moberly, MO

We have been building and renovating homes in Mid Missouri for 20 years. Since we have not yet built in Moberly we have applied for a business license and submitted the needed docs. The proposed plan would align in the front with the homes that adjacent to the lot on each side. The front elevations would be done to align with the surrounding historic architecture. Here is an example of the proposed front elevation and floor plan:





6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002



We would remove the flex room, side porch to get to a 85-90' depth. This would still provide a 3 bedroom 2 bath home just under 1,600 sq. feet with a 2 car rear garage.



6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002

We do not own any other property in Moberly, this would be our first venture into Moberly.

If given the opportunity, we would like to start concrete before we get into a deep frost this winter. We would have financing in place 30 days from approval and the build time would be 4 months from start to finish weather permitting.

We would like to sale the home, however if economics conditions prevented a quick sale we would look at owner finance options to help someone become a homeowner or would rent the property until market conditions supported selling the home.

We estimate our sales price to be between \$225-250K. (with materials being a commodity and knowing that we may have some additional cost in site work it is hard to give an exact price at this time)

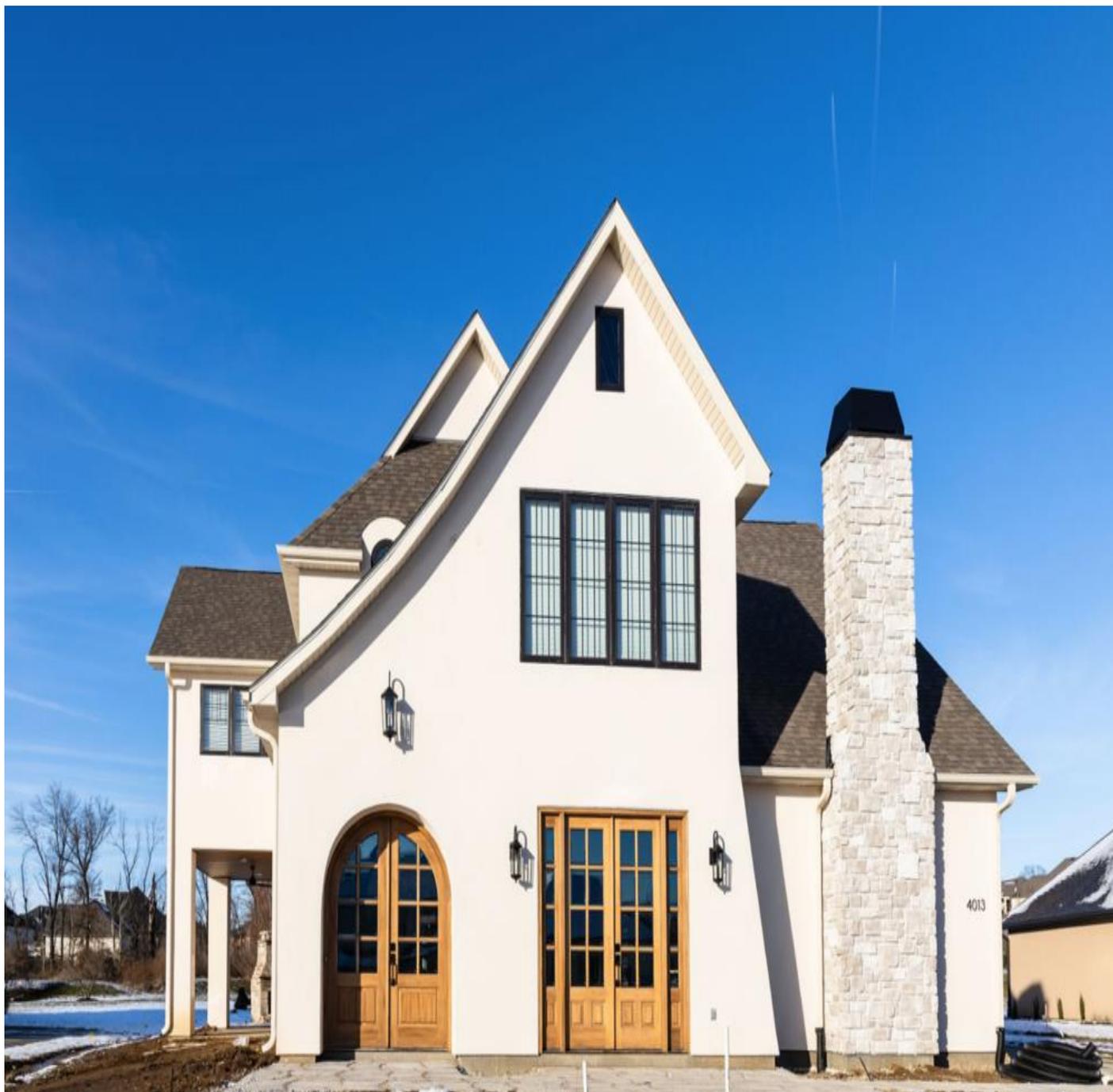
As mentioned above we have been building homes for 20 years primarily in Columbia, Mo and surrounding suburbs. Here is a link to our website and I will attach some pictures. We are very well versed in everything from starter homes to estate homes exceeding a million dollars. We have also had the privilege of doing very large residential and commercial renovations, with some of them being historic renovations under very tight guidelines. [www.studiospillmanhomes.com](http://www.studiospillmanhomes.com) (previously known as Spillman Homes)

Below is the front elevation of a home built in Coppertone that is on a very narrow lot with a rear garage.

Below is a home on the historic registry we just finished in the town of Arrow Rock. (I can happily provide more pictures if needed) I felt this shows our understanding of preserving the character of a very historic location. The interior picture is the picture of the addition we added while renovating the entire home followed by an exterior pictures.

# STUDIO *Spillman*

6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002



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6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002





6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002

**Proposed redevelopment:**

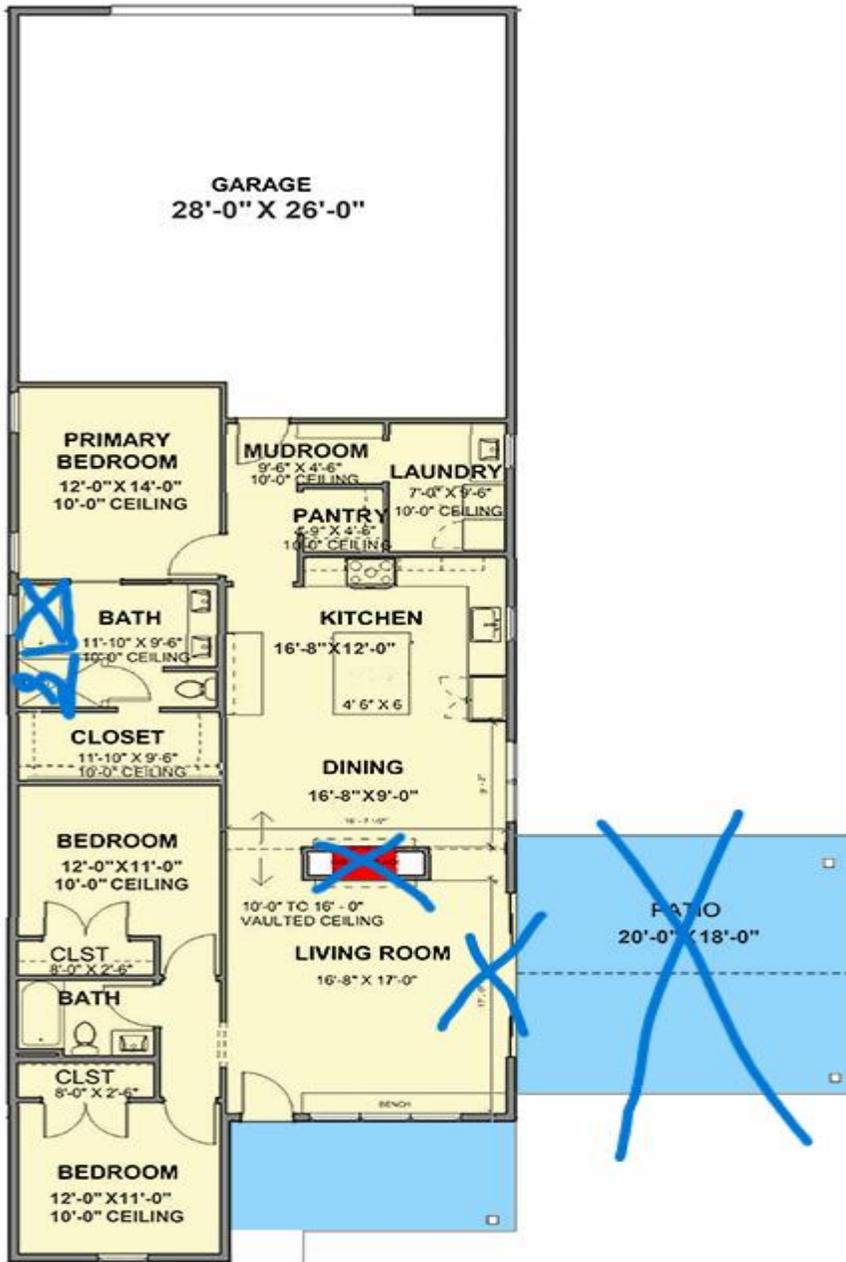
812 W. Reed Moberly, MO

We have been building and renovating homes in Mid Missouri for 20 years. Since we have not yet built in Moberly, we have applied for a business license and submitted the needed docs. The proposed plan would align in the front with the homes that adjacent to the lot on each side. The front elevations would be done to align with the surrounding historic architecture. Here is an example of the proposed front elevation and floor plan:





6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002





6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002

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STUDIO  
*Spillman*

6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002



STUDIO  
*Spillman*

6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002



# STUDIO *Spillman*

6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002



# STUDIO *Spillman*

6030 N. Locust Grove Church Rd. Columbia, Mo 65202 – Phone (573) 443-2002



# City of Moberly City Council Agenda Summary

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

Department: Community Development

Date: November 6, 2023

**Agenda Item:** Letter Requesting Removal Of Stop Signs And Street Name Change.

**Summary:** Attached is the letter received October 31<sup>st</sup> and a map and explanation of staff's option of the request.

**Recommended Action:** Direct staff to bring forward to the November 20, 2023 regular City Council meeting for final approval.

**Fund Name:** N/A

**Account Number:** N/A

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

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

10/24/2023

To the City of Moberly

Hello, my name is Mike Truesdell. I live at 1213 Timberline Road. We are requesting the removal of stop signs at the following locations for reasons we will state.

The stop signs on the northbound and southbound sides of the intersection of Homestead Drive and Epperson Street and Tara Park. These signs were requested by one person, and they affect everyone in Homestead who use it. The intersection worked very smoothly before the signs were installed.

The stop signs at the eastbound and westbound sides at the intersection of Fisk Avenue and Park Avenue. This intersection also worked very smoothly before the signs were installed.

The stop signs at all of the eastbound and westbound intersections of West Coates Street from Johnson Street to North Clark Street. Before you automatically say no to this, please hear our reasoning. We travel West Coates Street regularly, stopping at all of the stop signs. Almost never are there any vehicles trying to enter West Coates Street from any of the side streets at the intersections.

Lastly, we would like to request that the portion of the newly named Shepard Brothers Boulevard between South Morley Street and South Williams Street be returned to Pig N' Bun Road.

Let's update these areas to allow for smooth traffic flow through them. Let me also say that we love living in Moberly and appreciate all that you do to improve our great city. Thank you.

Respectfully,

Mike Truesdell



**Carla Beal**

**From:** Tom Sanders  
**Sent:** Tuesday, October 31, 2023 2:09 PM  
**To:** tlink; Randall Thompson  
**Cc:** Carla Beal  
**Subject:** Request for Stop Sign Removal & Street name change

I received a letter (will have Carla scan and forward the actual letter) addressed to the City from Mike Truesdell, from 1213 Timberline Road. He has the following requests;

**Making Homestead/Epperson a through street at Tara Park.** This one I could maybe get behind as the residents of Homestead would like start using Epperson more as an egress/ingress, and most of the traffic is from that subdivision, but I will leave that to PD for final recommendation.



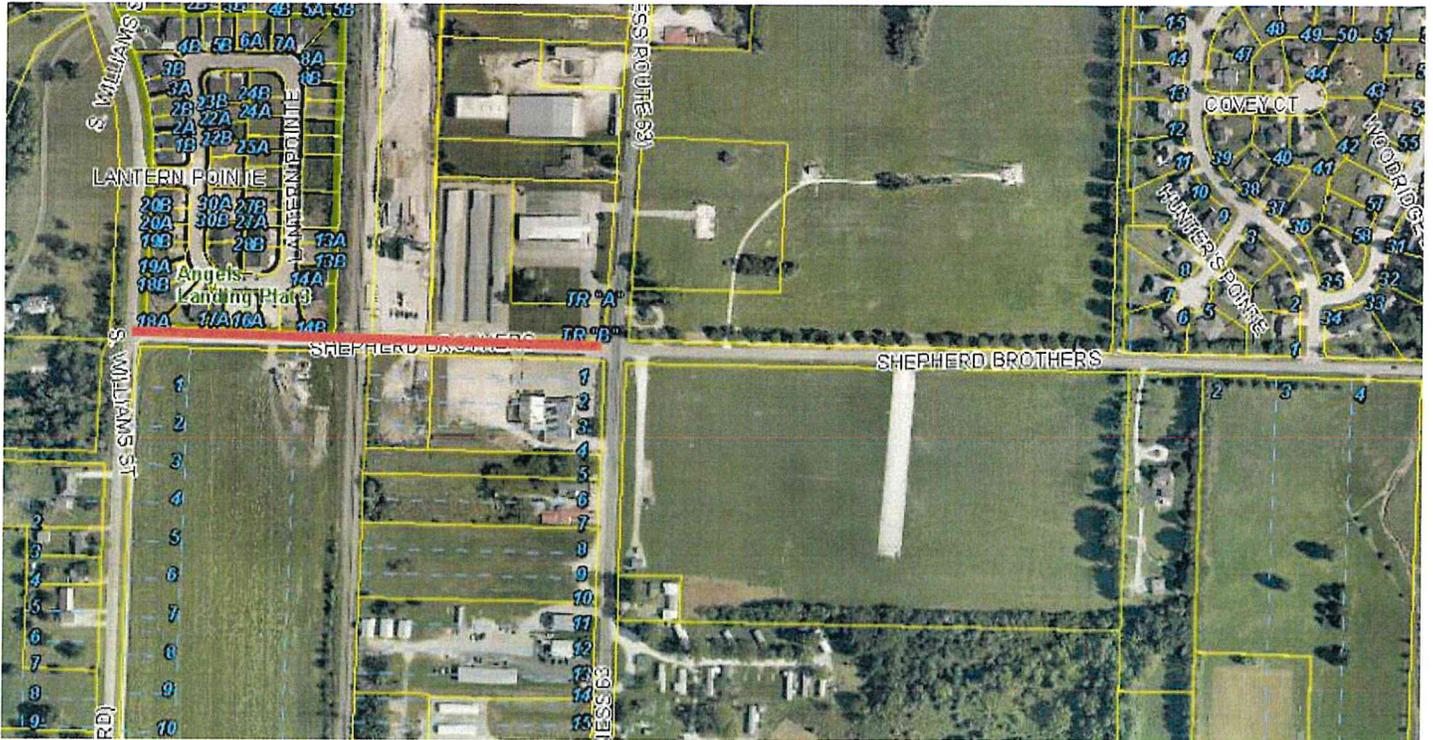
**Making Fisk a through street at Park Ave.** Traffic already comes fast down Fisk, and there is a fair amount of traffic coming off of Park on to Fisk. I would be concerned the likely increased speed through there and the sight distance back to the East would cause accidents.



Removal of all East/West stop signs on Coates, between Johnson & Clark, making it a through street in the downtown area. Certainly would poll the downtown businesses. I am sure for traffic cutting through there it might seem like a good choice, but for the surge in foot traffic for events and during business hours, I would think not having vehicles stop at designated crosswalks would be a problem and create more concerns/problems than the removal would create advantages.



Also requesting the 100 block(s) of Shepherd Brothers Blvd. revert back to Pig-N-Bun Road. – While I can certainly understand the memory that Pig-N-Bun has for some, the family was contacted by the group that was working for the name change to Shepherd Brothers Boulevard, and part of the agreed upon criteria for the land donations, supportive funding was the street name change. Another reason for making both KWIX & Pig-N- Bun is the confusion it causes for a continual road to change names. While there is little that would be impacted by the way of addresses, Community Development would prefer to keep the stretch of road uniform, but would support whatever the council felt was appropriate.





# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #8.

Department: Public Works

Date: November 6, 2023

**Agenda Item:** Discussion Of Farm Lease Agreement.

**Summary:** It was mentioned that 50% should be paid up front. We have attached a copy of the agreement for your review.

**Recommended**

**Action:** For Council to review.

**Fund Name:** N/A

**Account Number:** N/A

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

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

# Farm Lease Agreement

**Lessors:**

City of Moberly  
101 W. Reed St.  
Moberly MO 65270

**Lessee:**

XXXXXXXXXX  
XXXXXXXXXX  
XXXXXXXX, XX XXXXX

**Area to be Leased:** Approximately 155+/- acres, see attached map

**Payable to City of Moberly:**

**Term of Agreement:** From January 1, 2024 to December 31, 2027. This agreement is for the term stated herein and no notice of termination of the Agreement is required.

**Rental Rate:** Lessee shall pay rent of xxxxxxxxxxxxxxxxxxxx Dollars (\$xx.xx) per acre, per year. This is cash rent due and payable to Lessors. Lessors are not responsible for any expenses incurred by Lessee in farming/planting/harvesting the acreage.

**Payment:** Fifty (50) percent of the payment is due upfront each year and the remaining is due by December 15 of each year.

**Indemnity:** Lessee agrees to defend, indemnify and hold harmless the Lessor for losses/expenses incurred by Lessee in the farming of the leased property.

**Insurance:** Lessee agrees to maintain the following insurance:

Commercial General Liability with minimum limits of \$1,000,000/occurrence and \$2,000,000 aggregate.  
Automobile Liability with minimum limits of \$1,000,000/occurrence and \$2,000,000 aggregate. Workers' Compensation insurance with statutory limits as required by law including Employer's Liability insurance with minimum limits of \$1,000,000 per accident.

**Special Agreements:**

Lessors and Lessee estimate the total tillable acres at approximately 148 acres. Lessors and Lessee agree that the actual determination of acres will be made by official FSA measurements. Lessors are responsible for payment of all property taxes and shall carry their own liability insurance on the property. Lessee, in addition to the insurance required above, shall carry sufficient liability insurance to cover his/her farming operations on the land. Lessee shall pay all costs associated with producing crops on this land and shall be entitled to all agricultural production from this land.

Should the Lessors desire to convert any portion of the land covered by this lease to non-agricultural use during the term of the lease that may cause damage to or the loss of any crops, the lessee agrees to vacate the premises immediately and the following shall be used to calculate compensation to Lessee:

- If damage or crop loss takes place before July 1, compensation shall be the reimbursement of actual documented expenses to prepare land and plant the crop.
- If damage or crop loss takes place after July 1, an average of the yield of the crop from only the remaining acres covered by this lease will be used to calculate compensation.

No hazardous chemicals may be transported or stored on the property covered by this lease and the Lessee may not build structures of any kind. No equipment may be stored on the property covered by this lease and no trash, rubbish or salvage may be placed or left on the property.

Lessee further agrees to provide up to \$2,500 per year on a yearly basis for any land clearing or cleanup on the land covered by this lease free of charge to the owner. This will cover equipment and labor costs provided by the Lessee.

**Liability:** Lessors neither assumes nor accepts any and all liability for debts or activities associated with the farming of this land.

Agreed to and Signed this \_\_\_\_ day of \_\_\_\_\_, 202\_ by:

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
Lessee

\_\_\_\_\_  
Date

# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_

WS #9.

Department: Fire

Date: November 6, 2023

**Agenda Item:** A Request To Authorize The City Manager To Enter Into An Agreement With Cummins Sales And Service For A Fleet Management Agreement To Provide Routine Service On The Moberly Fire Department Engines And Aerial Truck.

**Summary:** Through The Budgetary Process, The Fire Department Requested Additional Monies To Cover The Costs Of Pursuing A Fleet Management Program/Agreement For Routine Servicing Of Our Fire Engines and Aerial Truck. The Department Selected Cummins Sales and Service To Be The Vendor Based Upon Service History and Responsiveness, and Availability. This Funding Was Approved In The 2023-2024 Fiscal Budget, Within The Contracted Services Account. After Discussion With The Finance Department, It Was Decided That This Should Be Added To The Truck Maintenance Account To Reflect Proper Financing Processes.

**Recommended**

**Action:** Forward to the next City Council meeting as a Resolution.

**Fund Name:** Truck Maintenance

**Account Number:** 100.008.5309

**Available Budget \$:** \$3500.00

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>Brubaker</b>	___	___
<input checked="" 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>Lucas</b>	___	___
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ <b>Jeffrey</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			
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

<b>Moberly Fire - Fleet Management</b>	
<b>Vendor</b>	<b>Quoted Pricing</b>
Cummins Sales & Service, LLC	\$3,500.00
Emergency Apparatus Maintenance, Inc.	\$6,100.00

The Fire Department recommends going with the low bid from Cummins Sales and Service, LLC.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
**ESTIMATE**  
 TO PAY ONLINE LOGON TO  
 customerpayment.cummins.com

**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

DON RYAN - 660 2698705

PAGE 1 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023		17-MAR-2015	ISL9 CM2350 L101		PIERCE
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680		24-OCT-2023	73741285	CPL3663	SABER
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109320					302

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
OSN/MSN/VIN 4P1BAHFF3FA015070							
COMPLAINT COMPLETE LOF AND PM							
CORRECTION TRAVEL							
TECHNICIAN ADMINISTRATIVE TIME - ROAD/FIELD REPAIR							
TECHNICIAN ADMINISTRATIVE TIME - NON-FIELD ACTION SERVICE EVENT							
JOB SAFETY ASSESSMENT							
T8-PREVENTATIVE MAINTENANCE INSPECTION							
1	0	0	LF9009	PAC, LF	FLG	58.27	58.27
1	0	0	FF63054-NN	PAC,FF	FLG	65.03	65.03
6	0	0	C891007GA	P BL 1 S GN2 15W-40 1-GA	VALVOLINE	18.94	113.64
1	0	0	CV70133TU	CERULEAN GREASE #2 14-OZ	VALVOLINE	3.82	3.82

TAX EXEMPT NUMBERS:

PARTS:	240.76
PARTS COVERAGE CREDIT:	0.00CR
TOTAL PARTS:	<b>240.76</b>
SURCHARGE TOTAL:	<b>0.00</b>
LABOR:	531.36
LABOR COVERAGE CREDIT:	0.00CR
TOTAL LABOR:	<b>531.36</b>
MISC.:	0.00
MISC. COVERAGE CREDIT:	0.00CR
TOTAL MISC.:	<b>0.00</b>

SIGN UP FOR AUTO EMAIL OF  
 INVOICES AND CREDITS AT  
[HTTP://CUSTOMERPAYMENT.CUMMINS.COM](http://CUSTOMERPAYMENT.CUMMINS.COM)

Completion date : 25-Oct-2023 11:24AM. Estimate expires : 23-Nov-2023 11:24AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name)

71

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have accepted these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of a purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

**CUSTOMER OBLIGATIONS** If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

**INVOICING AND PAYMENT** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

**TAXES; EXEMPTIONS** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

**DELIVERY; TITLE AND RISK OF LOSS** Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

New Goods: New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

HHP Exchange Engine: HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

**Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

**INDEMNIFICATION** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

**LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

**GOVERNING LAW AND JURISDICTION** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

**ASSIGNMENT** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

**CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

**REFUNDS/CREDITS** Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

**INTELLECTUAL PROPERTY** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

**COMPLIANCE WITH LAWS** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**PRICING** To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

**MISCELLANEOUS** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
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**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

DON RYAN - 660 2698705

PAGE 2 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023		17-MAR-2015	ISL9 CM2350 L101		PIERCE
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680		24-OCT-2023	73741285	CPL3663	SABER
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109320					302

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
			4P1BAHFF3FA015070			LOCAL	0.00

Completion date : 25-Oct-2023 11:24AM. Estimate expires : 23-Nov-2023 11:24AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

SUB TOTAL: 772.12

TOTAL TAX: 0.00

**TOTAL AMOUNT: US \$ 772.12**

AUTHORIZED BY (print name)

73

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have accepted these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of a purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

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**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

**New Goods:** New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

**HHP Exchange Engine:** HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

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THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

**INDEMNIFICATION** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

**LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

**GOVERNING LAW AND JURISDICTION** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

**ASSIGNMENT** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

**CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

**REFUNDS/CREDITS** Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

**INTELLECTUAL PROPERTY** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

**COMPLIANCE WITH LAWS** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**PRICING** To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

**MISCELLANEOUS** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
**ESTIMATE**  
 TO PAY ONLINE LOGON TO  
 customerpayment.cummins.com

**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

**OWNER**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554  
 DON RYAN - 660 2698705

PAGE 1 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023		25-APR-2022	L9 CM2450 L126B		ROSENBAUER
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680		24-OCT-2023	74931055		COMMANDER
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109319					303

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
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OSN/MSN/VIN

N/A

**COMPLAINT** TRAVEL TO CUST SITE COMPLETE LOF AND PM  
**CAUSE** CUSTOMER REQUEST  
**COVERAGE** CUSTOMER BILLABLE

1	0	FF63041-NN	PAC, FF		FLG	89.15	89.15
1	0	LF1400200MX NN	PAC, LF		FLG	95.95	95.95
1	0	CV70133TU	ORDERED ITEM LF14002NN FLG CERULEAN GREASE #2 14-OZ		VALVOLINE	3.82	3.82
8	0	C891007GA	P BL 1 S GN2 15W-40 1-GA		VALVOLINE	18.94	151.52

TAX EXEMPT NUMBERS:

PARTS:	340.44
PARTS COVERAGE CREDIT:	0.00CR
TOTAL PARTS:	<b>340.44</b>
SURCHARGE TOTAL:	<b>0.00</b>
LABOR:	546.26
LABOR COVERAGE CREDIT:	0.00CR
TOTAL LABOR:	<b>546.26</b>
TRAVEL:	147.07
TRAVEL COVERAGE CREDIT:	0.00CR
TOTAL TRAVEL:	<b>147.07</b>
MISC.:	59.25
MISC. COVERAGE CREDIT:	0.00CR
TOTAL MISC.:	<b>59.25</b>
ROAD MILEAGE	59.25

SIGN UP FOR AUTO EMAIL OF  
 INVOICES AND CREDITS AT  
[HTTP://CUSTOMERPAYMENT.CU](http://CUSTOMERPAYMENT.CU)

**Completion date : 25-Oct-2023 11:20AM. Estimate expires : 23-Nov-2023 11:20AM.**

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name)

75

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have accepted these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of a purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and of no legal effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

**CUSTOMER OBLIGATIONS** If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

**INVOICING AND PAYMENT** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

**TAXES; EXEMPTIONS** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

**DELIVERY; TITLE AND RISK OF LOSS** Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

New Goods: New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

HHP Exchange Engine: HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

**Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

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Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
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 TO PAY ONLINE LOGON TO  
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**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

**OWNER**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554  
 DON RYAN - 660 2698705

PAGE 2 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023		25-APR-2022	L9 CM2450 L126B		ROSENBAUER
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680		24-OCT-2023	74931055		COMMANDER
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109319					303

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT

OSN/MSN/VIN N/A

MMINS.COM

LOCAL

0.00

Completion date : 25-Oct-2023 11:20AM. Estimate expires : 23-Nov-2023 11:20AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

SUB TOTAL: 1,093.02

TOTAL TAX: 0.00

**TOTAL AMOUNT: US \$ 1,093.02**

AUTHORIZED BY (print name)

77

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and have no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

**CUSTOMER OBLIGATIONS** If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

**INVOICING AND PAYMENT** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

**TAXES; EXEMPTIONS** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

**DELIVERY; TITLE AND RISK OF LOSS** Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

**New Goods:** New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

**HHP Exchange Engine:** HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

**Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

**INDEMNIFICATION** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

**LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

**GOVERNING LAW AND JURISDICTION** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

**ASSIGNMENT** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

**CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

**REFUNDS/CREDITS** Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

**INTELLECTUAL PROPERTY** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

**COMPLIANCE WITH LAWS** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**PRICING** To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

**MISCELLANEOUS** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
**ESTIMATE**  
 TO PAY ONLINE LOGON TO  
 customerpayment.cummins.com

**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

DON RYAN - 660 2698705

PAGE 1 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023			ISC CM554		
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680			46204802		
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109321					

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
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**COMPLAINT**

COMPLETE LOF AND PM  
 2002 CONTENDER - # 46204802 (CUMMINS)

**CORRECTION**

TRAVEL  
 ADMINISTRATIVE TIME  
 TECHNICIAN ADMINISTRATIVE TIME - ROAD/FIELD REPAIR  
 TECHNICIAN ADMINISTRATIVE TIME - NON-FIELD ACTION SERVICE EVENTS  
 JOB SAFETY ASSESSMENT  
 T8-PREVENTATIVE MAINTENANCE (NON ENGINE)

1	0	LF9009	PAC, LF	FLG		58.27	58.27
1	0	FS1022	PAC, FS	FLG		39.87	39.87
6	0	C891007GA	P BL 1 S GN2 15W-40 1-GA	VALVOLINE		18.94	113.64
1	0	CV70133TU	CERULEAN GREASE #2 14-OZ	VALVOLINE		3.82	3.82

TAX EXEMPT NUMBERS:

PARTS:	215.60	
PARTS COVERAGE CREDIT:		0.00CR
TOTAL PARTS:	<b>215.60</b>	
SURCHARGE TOTAL:		<b>0.00</b>
LABOR:		546.26
LABOR COVERAGE CREDIT:		0.00CR
TOTAL LABOR:	<b>546.26</b>	
MISC.:		0.00
MISC. COVERAGE CREDIT:		0.00CR
TOTAL MISC.:	<b>0.00</b>	

SIGN UP FOR AUTO EMAIL OF  
 INVOICES AND CREDITS AT  
[HTTP://CUSTOMERPAYMENT.CU  
 MMINS.COM](http://customerpayment.cummins.com)

Completion date : 25-Oct-2023 11:27AM. Estimate expires : 23-Nov-2023 11:27AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name)

79

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of a purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and have no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

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**TAXES; EXEMPTIONS** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

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**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

**New Goods:** New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

**HHP Exchange Engine:** HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

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**COMPLIANCE WITH LAWS** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**PRICING** To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

**MISCELLANEOUS** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
**ESTIMATE**  
 TO PAY ONLINE LOGON TO  
 customerpayment.cummins.com

**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

DON RYAN - 660 2698705

PAGE 2 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023			ISC CM554		
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680			46204802		
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109321					

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
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LOCAL 0.00

Completion date : 25-Oct-2023 11:27AM. Estimate expires : 23-Nov-2023 11:27AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

SUB TOTAL: 761.86

TOTAL TAX: 0.00

**TOTAL AMOUNT: US \$ 761.86**

AUTHORIZED BY (print name)

81

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of a purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and have no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

**CUSTOMER OBLIGATIONS** If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

**INVOICING AND PAYMENT** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

**TAXES; EXEMPTIONS** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

**DELIVERY; TITLE AND RISK OF LOSS** Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

New Goods: New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

HHP Exchange Engine: HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

**Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

**INDEMNIFICATION** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

**LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

**GOVERNING LAW AND JURISDICTION** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

**ASSIGNMENT** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

**CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

**REFUNDS/CREDITS** Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

**INTELLECTUAL PROPERTY** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

**COMPLIANCE WITH LAWS** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**PRICING** To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

**MISCELLANEOUS** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

<b>INVOICE NO</b>
<b>ESTIMATE</b>
TO PAY ONLINE LOGON TO customerpayment.cummins.com

**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

DON RYAN - 660 2698705

PAGE 1 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023			DETROIT		
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680			6R0875146		
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109322					

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
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**COMPLAINT**

COMPLETE LOF AND PM  
 2006 SUTPHEN SPH100 AERIAL - # 6R0875146 (DETROIT)

**CORRECTION**

TRAVEL  
 ADMINISTRATIVE TIME  
 TECHNICIAN ADMINISTRATIVE TIME - ROAD/FIELD REPAIR  
 TECHNICIAN ADMINISTRATIVE TIME - NON-FIELD ACTION SERVICE EVENTS  
 JOB SAFETY ASSESSMENT  
 T8-PREVENTATIVE MAINTENANCE INSPECTION

1	0	FS19513	PAC, FS	FLG		28.05	28.05
1	0	LF3620	PAC, LF	FLG		25.83	25.83
11	0	C891007GA	P BL 1 S GN2 15W-40 1-GA	VALVOLINE		18.94	208.34
1	0	CV70133TU	CERULEAN GREASE #2 14-OZ	VALVOLINE		3.82	3.82

TAX EXEMPT NUMBERS:

PARTS:	266.04
PARTS COVERAGE CREDIT:	0.00CR
TOTAL PARTS:	<b>266.04</b>
SURCHARGE TOTAL:	<b>0.00</b>
LABOR:	546.26
LABOR COVERAGE CREDIT:	0.00CR
TOTAL LABOR:	<b>546.26</b>
MISC.:	0.00
MISC. COVERAGE CREDIT:	0.00CR
TOTAL MISC.:	<b>0.00</b>

SIGN UP FOR AUTO EMAIL OF  
 INVOICES AND CREDITS AT  
[HTTP://CUSTOMERPAYMENT.CU](http://customerpayment.cu)  
 MMINS.COM

Completion date : 25-Oct-2023 11:30AM. Estimate expires : 23-Nov-2023 11:31AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name)

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TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have made an unqualified acceptance of these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and have no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

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**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

**New Goods:** New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

**HHP Exchange Engine:** HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

**Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

THE REMEDIES PROVIDED IN THE LIMITED WARRANTIES AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY.

**INDEMNIFICATION** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services and/or Goods supplied under this Agreement (collectively, the "Claims"), where such Claims were caused or contributed, in whole or in part, by the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity, including any tenders for defense and indemnity by Cummins to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.

**LIMITATION OF LIABILITY NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, ENHANCED DAMAGES, MONETARY REQUESTS RELATING TO RECALL EXPENSES AND REPAIRS TO PROPERTY, AND/OR DAMAGES CAUSED BY DELAY) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF GOODS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF GOODS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT GIVING RISE TO THE CLAIM. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN EVEN IF THE EXCLUSIVE REMEDY IN SECTION 7 IS DEEMED TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.**

**GOVERNING LAW AND JURISDICTION** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the court of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.

**ASSIGNMENT** This Agreement is binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.

**CANCELLATION.** Orders placed with and accepted by Cummins may not be cancelled except with Cummins' prior written consent. Cummins may charge Customer a cancellation charge in accordance with current Cummins policy which is available upon request, in addition to the actual, non-recoverable costs incurred by Cummins.

**REFUNDS/CREDITS** Goods ordered and delivered by Cummins under this Agreement are not returnable unless agreed to by Cummins. Cummins may, at its sole discretion, agree to accept Goods for return and provide credit where Goods are in new and saleable condition and presented with a copy of the original invoice. Credits for returns will be subject to up to a 15% handling/restocking charge and are limited to eligible items purchased from Cummins.

**INTELLECTUAL PROPERTY** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.

**COMPLIANCE WITH LAWS** Customer shall comply with all laws applicable to its activities under this Agreement, including without limitation, all applicable national, provincial, and local export, anti-bribery, environmental, health, and safety laws and regulations in effect. Customer acknowledges that the Goods, and any related technology that are sold or otherwise provided hereunder may be subject to export and other trade controls restricting the sale, export, re-export and/or transfer, directly or indirectly, of such Goods or technology to certain countries or parties, including, but not limited to, licensing requirements under applicable laws and regulations of the United States, the United Kingdom and other jurisdictions. It is the intention of Cummins to comply with these laws, rules, and regulations. Any other provision of this Agreement to the contrary notwithstanding, Customer shall comply with all such applicable laws relating to the cross-border movement of goods or technology, and all related orders in effect from time to time, and equivalent measures. Customer shall accept full responsibility for any and all civil or criminal liabilities and costs arising from any breaches of those laws and regulations and will defend, indemnify, and hold Cummins harmless from and against any and all fines, penalties, claim, damages, liabilities, judgments, costs, fees, and expenses incurred by Cummins or its affiliates as a result of Customer's breach.

**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

**PRICING** To the extent allowed by law, actual prices may vary from the price at the time of order placement, as the same will be based on prices prevailing on the date of shipment. Subject to local laws, Cummins reserves the right to adjust pricing on goods and services due to input and labor cost changes and other unforeseen circumstances beyond Cummins' control.

**MISCELLANEOUS** All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote and/or Invoice. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter or the enforceability of the Agreement generally, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof. These terms are exclusive and constitute entire agreement. Customer acknowledges that the provisions were freely negotiated and bargained for and Customer has agreed to purchase of the Goods and/or Services pursuant to these terms and conditions. Acceptance of this Agreement is expressly conditioned on Customer's assent to all such terms and conditions. Neither party has relied on any statement, representation, agreement, understanding, or promise made by the other except as expressly set out in this Agreement.

To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 Cummins Sales and Service  
 PO Box 772639  
 Detroit, MI 48277-2639

WS #9.

COLUMBIA MO BRANCH  
 5221 HWY 763 NORTH  
 COLUMBIA, MO 65202-  
 (573)449-3711

**INVOICE NO**  
**ESTIMATE**  
 TO PAY ONLINE LOGON TO  
 customerpayment.cummins.com

**BILL TO**

CITY OF MOBERLY  
 101 W REED ST  
 MOBERLY, MO 65270-1554

DON RYAN - 660 2698705

PAGE 2 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
24-OCT-2023			DETROIT		
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
146680			6R0875146		
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
109322					

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	AMOUNT
------------------	--------------	------------------	-------------	-------------	--------------	------------	--------

LOCAL 0.00

Completion date : 25-Oct-2023 11:30AM. Estimate expires : 23-Nov-2023 11:31AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

SUB TOTAL: 812.30

TOTAL TAX: 0.00

**TOTAL AMOUNT: US \$ 812.30**

AUTHORIZED BY (print name)

85

TITLE

DATE

These Terms and Conditions, together with the estimate/quote (the "Quote") and/or invoice ("Invoice") attached to these Terms and Conditions, are hereinafter collectively referred to as this "Agreement" and shall constitute the entire agreement between the customer ("Customer") identified on the Quote and/or Invoice and Cummins Inc. ("Cummins") and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. Customer shall be deemed to have accepted these Terms and Conditions and it shall become a binding agreement between the parties on the earliest of the following to occur: (i) Cummins' receipt of a purchase order or purchase order number; (ii) Customer's signing or acknowledgment of this Agreement; (iii) Cummins' release of Products to production pursuant to Customer's oral or written instruction or direction; (iv) Customer's payment of amounts due to Cummins; or (v) any other event constituting acceptance under applicable law. No prior inconsistent course of dealing, course of performance, or usage of trade, if any, constitutes a waiver of, or serves to explain or interpret, and Conditions set forth in this Agreement. Electronic transactions between Customer and Cummins will be solely governed by the Terms and Conditions of this Agreement, and any terms and conditions on Customer's website or other internet site shall be null and void and of no legal effect on Cummins. In the event Customer delivers, references, incorporates by reference, or produces any purchase order or document, any terms and conditions related thereto: (i) shall be null and void and have no effect on Cummins, and (ii) this Agreement shall remain the governing terms of the transaction.

WS #9.

**SCOPE OF SERVICES; PERFORMANCE OF SERVICES** Cummins shall supply part(s) and/or component(s) and/or engine(s) and/or generator set(s) ("Goods") and/or perform the maintenance and/or repair ("Services") on the equipment identified in the Quote and/or Invoice ("Equipment"), if applicable, in accordance with the specifications in the Quote and/or Invoice. No additional services or goods are included in this Agreement unless agreed upon by the parties in writing, or otherwise, as applicable.

**CUSTOMER OBLIGATIONS** If necessary, Customer shall provide Cummins safe and free access to Customer's site and arrange for all related services and utilities necessary for Cummins to safely and freely perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to injury to facility occupants, customers, invitees, or any third party and/or property damage or work interruption arising out of the Services. If applicable, Customer shall make all necessary arrangements to address and mitigate the consequences of any electrical service interruption which might occur during the Services. Customer is responsible for operating and maintaining the Equipment in accordance with the owner's manual for the Equipment.

**INVOICING AND PAYMENT** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of Invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Goods and/or Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins.

**TAXES; EXEMPTIONS** The Invoice includes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer under this Agreement. Customer must provide a valid tax exemption certificate or direct payment certificate prior to shipment of the Goods or performance of the Services, or such taxes will be included in the Invoice.

**DELIVERY; TITLE AND RISK OF LOSS** Unless otherwise agreed in writing by the parties, any Goods supplied under this Agreement shall be delivered FOB Origin, freight prepaid to the first destination. If agreed, any charges for third party freight are subject to adjustment to reflect any change in price at time of shipment. Unless otherwise agreed to, packaging method, shipping documents and manner, route and carrier and delivery shall be as Cummins deems appropriate. All shipments are made within normal business hours, Monday through Friday. Unless otherwise agreed in writing by the parties, title and risk of loss for any Goods sold under this Agreement shall pass to Customer upon delivery of Goods by Cummins to freight carrier or to Customer at pickup at Cummins' facility.

**DELAYS** Any delivery, shipping, installation, or performance dates indicated in this Agreement are estimated and not guaranteed. Further, delivery time is subject to confirmation at time of order. Cummins shall not be liable to Customer or any third party for any loss, damage, or expense suffered by Customer or third party due to any delay in delivery, shipping, installation, or performance, however occasioned, including any delays in performance that result directly or indirectly from acts of God, or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes. AS A RESULT OF THE OUTBREAK OF THE DISEASE COVID-19 ARISING FROM THE NOVEL CORONAVIRUS, TEMPORARY DELAYS IN DELIVERY, LABOUR OR SERVICES FROM CUMMINS AND ITS SUB-SUPPLIERS OR SUBCONTRACTORS MAY OCCUR. AMONG OTHER FACTORS, CUMMINS' DELIVERY OBLIGATIONS ARE SUBJECT TO CORRECT AND PUNCTUAL SUPPLY FROM OUR SUB-SUPPLIERS OR SUBCONTRACTORS, AND CUMMINS RESERVES THE RIGHT TO MAKE PARTIAL DELIVERIES OR MODIFY ITS LABOUR OR SERVICE. WHILE CUMMINS SHALL MAKE EVERY COMMERCIALY REASONABLE EFFORT TO MEET THE DELIVERY, SERVICE OR COMPLETION OBLIGATIONS SET FORTH HEREIN, SUCH DATES ARE SUBJECT TO CHANGE.

#### LIMITED WARRANTIES

**New Goods:** New Goods purchased or supplied under this Agreement are governed by the express written manufacturers' warranty. No other warranty for Goods supplied under this Agreement is provided under this Agreement. Cummins Exchange Components, Other Exchange Components, and Recon: Cummins will administer the Cummins exchange component warranty and the warranties of other manufacturers' exchange components or Recon Components which are sold by Cummins. In the event of defects in such items, only manufacturers' warranties will apply.

**HHP Exchange Engine:** HHP Exchange Engines remanufactured by Cummins under this Agreement are governed by the express Cummins' written warranty. No other warranty for HHP exchange Engines supplied under this Agreement is provided under this Agreement.

**General Service Work:** All Services shall be free from defects in workmanship (i) for power generation equipment (including engines in such equipment), for a period of ninety (90) days after completion of Services or 500 hours of operation, whichever occurs first; or (ii) for engines, for a period of ninety (90) days after completion of Services, 25,000 miles or 900 hours of operation, whichever occurs first. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ("Warrantable Defect"), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of the Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New Goods supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such Goods.

**Used Goods:** Used Goods are sold "as is, where is" unless exception is made in writing between Cummins and Customer. Customer agrees to inspect all used Goods before completing the purchase.

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**CONFIDENTIALITY** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic, or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods, and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.

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To the extent applicable, this contractor and subcontractor shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability. The employee notice requirements set forth in 29 CFR Part 471, Appendix A to Subpart A, are hereby incorporated by reference into this contract.

# Estimate

Date: 10/25/2023

WS #9.

Estimate #: 9922



Emergency Apparatus Maintenance, Inc.  
7512 4th Avenue  
Lino Lakes, MN 55014

TEL: 651.786.4463 · 1.800.EAM.3911  
FAX: 651.786.0517  
EML: service@eamservice.com

Donald Ryan  
Moberly, MO Fire Department  
316 N. Clark St.  
Moberly, MO 65270-1520

Sales Rep: Rusty Svendsen

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

## Description

### Engine 302

Quantity	Description	Unit Cost	Cost
1	Engines / Tankers medium and heavy duty diesel applications; Complete Emergency Vehicle Safety Inspection and Full Service conducted per Emergency Apparatus Maintenance service report (copy attached). Includes engine oil, Manufacturers oil, fuel and coolant filters and chassis lubrication. Total investment per truck serviced...	\$1,025.00	\$1,025.00
1	Emergency Vehicle Safety Inspection  Conducted in accordance with our Emergency Apparatus Maintenance safety inspection form, conducted by our ASE, DOT EVT certified technicians.  This safety inspection is a through 60 plus point component inspection that covers all the items covered in a DOT inspection plus 45 additional components that comprises a through bumper to bumper top to bottom safety inspection of your emergency vehicle.	\$450.00	\$450.00

# Estimate

Date: 10/25/2023

WS #9.

Estimate #: 9922



Emergency Apparatus Maintenance, Inc.  
7512 4th Avenue  
Lino Lakes, MN 55014

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Donald Ryan  
Moberly, MO Fire Department  
316 N. Clark St.  
Moberly, MO 65270-1520

Sales Rep: Rusty Svendsen

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

## Description

### Engine 303

Quantity	Description	Unit Cost	Cost
1	Engines / Tankers medium and heavy duty diesel applications; Complete Emergency Vehicle Safety Inspection and Full Service conducted per Emergency Apparatus Maintenance service report (copy attached). Includes engine oil, Manufacturers oil, fuel and coolant filters and chassis lubrication.  Total investment per truck serviced...	\$1,200.00	\$1,200.00
1	Emergency Vehicle Safety Inspection  Conducted in accordance with our Emergency Apparatus Maintenance safety inspection form, conducted by our ASE, DOT EVT certified technicians.  This safety inspection is a through 60 plus point component inspection that covers all the items covered in a DOT inspection plus 45 additional components that comprises a through bumper to bumper top to bottom safety inspection of your emergency vehicle.	\$450.00	\$450.00

# Estimate

Date: 10/25/2023

WS #9.

Estimate #: 9922



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Lino Lakes, MN 55014

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FAX: 651.786.0517  
EML: service@eamservice.com

Donald Ryan  
Moberly, MO Fire Department  
316 N. Clark St.  
Moberly, MO 65270-1520

Sales Rep: Rusty Svendsen

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

## Description

### Engine 304

Quantity	Description	Unit Cost	Cost
1	Engines / Tankers medium and heavy duty diesel applications; Complete Emergency Vehicle Safety Inspection and Full Service conducted per Emergency Apparatus Maintenance service report (copy attached). Includes engine oil, Manufacturers oil, fuel and coolant filters and chassis lubrication. Total investment per truck serviced...	\$900.00	\$900.00
1	Emergency Vehicle Safety Inspection  Conducted in accordance with our Emergency Apparatus Maintenance safety inspection form, conducted by our ASE, DOT EVT certified technicians.  This safety inspection is a through 60 plus point component inspection that covers all the items covered in a DOT inspection plus 45 additional components that comprises a through bumper to bumper top to bottom safety inspection of your emergency vehicle.	\$450.00	\$450.00

# Estimate

Date: 10/25/2023

WS #9.

Estimate #: 9922



Emergency Apparatus Maintenance, Inc.  
7512 4th Avenue  
Lino Lakes, MN 55014

TEL: 651.786.4463 · 1.800.EAM.3911  
FAX: 651.786.0517  
EML: service@eamservice.com

Donald Ryan  
Moberly, MO Fire Department  
316 N. Clark St.  
Moberly, MO 65270-1520

Sales Rep: Rusty Svendsen

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

## Description

### Ladder 305

Quantity	Description	Unit Cost	Cost
1	Engines / Tankers medium and heavy duty diesel applications; Complete Emergency Vehicle Safety Inspection and Full Service conducted per Emergency Apparatus Maintenance service report (copy attached). Includes engine oil, Manufacturers oil, fuel and coolant filters and chassis lubrication. Total investment per truck serviced...	\$1,200.00	\$1,200.00
1	Emergency Vehicle Safety Inspection  Conducted in accordance with our Emergency Apparatus Maintenance safety inspection form, conducted by our ASE, DOT EVT certified technicians.  This safety inspection is a through 60 plus point component inspection that covers all the items covered in a DOT inspection plus 45 additional components that comprises a through bumper to bumper top to bottom safety inspection of your emergency vehicle.	\$450.00	\$450.00

## Description

Quantity	Description	Unit Cost	Cost
1	Travel Charge: Price estimate does not include travel expense. Service and repairs are scheduled in service runs with other departments in your area to minimize travel expense. Travel expense is split between all departments on the service run and will be added to the final invoice.		

## Summary

This estimate is based on the average parts and labor required to complete the stated repairs. These estimates are figured upon average accessibility to parts requiring repairs and will be charged on a time and materials basis.

*Thank you for the opportunity to provide an estimate for this project. If you have any questions regarding this estimate, or if we can be of further assistance, please call us at **651.786.4463** or **1.800.326.3911**, or email us at **service@eamservice.com**.*

# City of Moberly City Council Agenda Summary

Agenda Number: WS #10.  
 Department: Parks and Recreation  
 Date: November 6, 2023

**Agenda Item:** Lakeshore Project Engineering Addendum.

**Summary:** The engineering is largely done for the lakeshore projects. We would, however, like to add to the scope to address the mouth Rothwell Lake spillway. The spillway is many decades old and deteriorating. Engineers aren't overall concerned with the majority of the spillway. But addressing the first 20 feet of the spillway would allow us more affordably – while contractors are already on site for the lakeshore projects – address concerns about this most critical area that is seeing significant erosion and really wasn't designed properly. The redesign would shift the mouth of the spillway inward 2-3 ft (pending final analysis) and lower it 3-5 inches, allowing volume and energy to be released earlier in significant events (such as 2018 and 2023) rather than building up until the entire stormwater system is saturated and overwhelmed. The current design (too far east and a few inches too high) results in significant volume building up to where in both 2018 and 2023, we were 2 ft from overtopping the dam.

If there is no objection, we would seek to sign the extension on the staff level and have Council ratify that action at the November 20<sup>th</sup> regular meeting. The engineer estimates that upon approval, they can work up the final documents in 2-3 weeks which means we could go to bid after Thanksgiving and hopefully have construction occur in the spring.

**Recommended**

**Action:** Move forward to the November 20, 2024 meeting for ratification.

**Fund Name:** Parks > Capital Improvement

**Account Number:** 115.044.5406

**Available Budget \$:** \$120,946.36

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>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<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>Lucas</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>Jeffrey</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			
<input type="checkbox"/> Consultant Report	<input checked="" type="checkbox"/> Other: <u>Addendum</u>			
		Passed	Failed	

AGREEMENT FOR PROFESSIONAL SERVICES

CLIENT: **MOBERLY PARKS AND RECREATION**  
c/o Troy Bock, MPA, CPRE  
Director  
200 N Clark Street  
Moberly, MO 65270  
660-269-8705

BILLING: **SAME AS CLIENT**

DATE: **OCTOBER 20, 2023**

**PROJECT #: 23111.01**

PROJECT INFORMATION:

**ROTHWELL PARK BOAT RAMPS ENGINEERING SERVICES  
ADDENDUM FOR ROTHWELL LAKE SPILLWAY IMPROVEMENTS ALTERNATE**

SCOPE OF SERVICES / FEE FOR SERVICES:

Allstate Consultants LLC, 3312 LeMone Industrial Blvd., Columbia, MO agrees to provide professional services related to the attached scope of services for the above-listed project. These services will be completed on a **Not-to-Exceed fee** basis. See attached Addendum A for our hourly rates and standard terms and conditions.

Allstate Consultants LLC will complete our services for a not-to-exceed fee of **SIX THOUSAND AND FIVE HUNDRED DOLLARS (\$6,500)**.

CONTRACT:

Acceptance of this agreement will serve as Allstate Consultants' notice to proceed and together with the standard terms and conditions attached hereto represent the formal contractual agreement. All fees associated with this project will be paid for by the client.

Proposed By:

Accepted By:



**Brian Harrington, PE, PTOE**  
**Allstate Consultants LLC**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Print Name / Title**



**SCOPE OF SERVICES ADDENDUM**  
**ROTHWELL LAKE SPILLWAY IMPROVEMENTS**

This Addendum describes the scope and schedule of work to be performed by Allstate Consultants in connection with additional services for the **ROTHWELL LAKE SPILLWAY IMPROVEMENTS** in **MOBERLY, MO** and this Addendum is incorporated by reference into the attached Agreement for Engineering Services. The anticipated scope of work includes the following:

The project includes construction documents for the construction of the following items:

Rothwell Lake:

1. Replace the northern 20' of spillway concrete at the existing spillway (just south of the boat ramp).

The scope of work will be in addition to the previously contracted work for the Boat Ramps at Rothwell Lake and Waterworks Lake. The additional scope of work includes:

- Topographic Survey of the existing spillway
- construction plans (prepared as an alternate for the boat ramps construction project) for the proposed concrete work
- required additional specifications and permitting
- one additional site visit during construction
- one additional trip for construction stakeout
- and one additional set of concrete cylinders during construction

This estimate does not include the following (if any of these items are required, a separate estimate can be provided):

- Significant permitting activities outside the described permitting services listed above.
- Permit fees
- Advertising fees.
- Compaction Testing
- Additional Staking
- Utility Design
- Retaining Wall Design

Proposed By:



\_\_\_\_\_  
**Brian Harrington, PE, PTOE**  
**Allstate Consultants LLC**

Accepted By:

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Print Name / Title**

**ADDENDUM A – STANDARD TERMS AND CONDITIONS**

**Scope of Service:** The Client (you) and the Consultant (Allstate Consultants LLC) have agreed to a list of services the Consultant will provide to the Client as set forth in this agreement. The Consultant shall provide Additional Services if requested or directed by the Client. Additional Services are not included as part of the Scope of Services and shall be paid for by the Client in addition to payment for the services included. Payment for Additional Services will be made by the Client on an Hourly Rate basis, in accordance with the Consultant's prevailing fee schedule, as provided below. Any services not set forth in this agreement are specifically excluded and Consultant assumes no responsibility for those services. Directing the Consultant to proceed with services is an acceptance of this proposal.

**Fee:** A **Fixed fee**, if stated, shall constitute the total compensation due.  
 A **Percentage fee**, if stated, shall be calculated on the basis of the total cost of the work designed and specified by the Consultant.  
 An **Estimated fee**, if stated, will be calculated on an hourly basis, and the estimate shall not be exceeded by more than twenty percent without written approval of the Client.  
 A **Not-To-Exceed fee**, if stated, will be calculated on an hourly basis, and will not be exceeded without prior written approval of the Client.  
 An **Hourly fee**, if stated, will be based on the actual hours expended on the project and will be calculated on an hourly basis.  
**Hourly Rate:** Where the fee is to be calculated on an hourly basis, the rates shall be as follows:

PRINCIPAL .....	\$210.00
ENGINEER III.....	\$175.00
ENGINEER II .....	\$165.00
ENGINEER I .....	\$145.00
WATER QUALITY SCIENTIST III .....	\$165.00
WATER QUALITY SCIENTIST II.....	\$135.00
WATER QUALITY SCIENTIST I.....	\$90.00
PROJECT SCIENTIST III .....	\$160.00
INVESTIGATIVE ENGINEER III.....	\$260.00
INVESTIGATIVE ENGINEER II.....	\$230.00
INVESTIGATIVE ENGINEER I.....	\$200.00
TECHNICIAN VI/SURVEYOR III.....	\$155.00
TECHNICIAN V/SURVEYOR II.....	\$145.00
TECHNICIAN IV/SURVEYOR I/SENIOR PROJECT MANAGER.....	\$125.00
TECHNICIAN III/PROJECT MANAGER I .....	\$105.00
TECHNICIAN II .....	\$90.00
TECHNICIAN I.....	\$65.00
TECHNICIAN .....	\$45.00
CREW (1 MAN).....	\$155.00
CREW (2 MEN) .....	\$190.00
CREW (3 MEN) .....	\$215.00
INVESTIGATOR IV.....	\$155.00
INVESTIGATOR III .....	\$140.00
INVESTIGATOR II .....	\$110.00
INVESTIGATOR I .....	\$90.00
DRILL RIG CREW (2 MEN) .....	\$173.00
DRILL RIG CREW WITH GROUTER (2MEN).....	\$194.00
GPS RECEIVERS (PER UNIT).....	\$190.00/day
TRAFFIC COUNTERS (PER UNIT).....	\$215.00/day
ATV (PER UNIT) .....	\$155.00/day
MILEAGE .....	IRS Rate
EXPENSES (Lodging, Meals, Printing, Research, & etc.) .....	Actual Cost

**Annual Rate Increase:** Rates may be adjusted annually or periodically. Adjusted rates will be incorporated and billed into applicable agreements and contracts.

**Reimbursable Expenses:** The Client shall reimburse the Consultant for direct expenses incurred during performance of the service, including printing charges, taxes, mileage, public transportation cost, tolls, permit fees, equipment rentals, meals, lodging, and other miscellaneous expenses.

**Billing/Payments:** Statements for the Consultant's services shall typically be submitted on a monthly basis and at the completion of the project. Statements shall be due upon receipt and payable within 30 days after their date. Payments shall not be contingent upon any other payments to the Client by others. If not paid within 30 days, the Consultant may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of all services. Payments to the Consultant shall not be withheld, postponed or made contingent on the construction, completion or success of the project. No withholdings, deductions or offsets shall be made from the Consultant's compensation for any reason.

**Retainer:** A retainer or advance deposit may be required for the amount stated in this Agreement. If required, the Client shall pay the Consultants prior to our commencement of services. The client has agreed to pay our monthly invoices on a current basis and the retainer shall be applied to the outstanding balance upon the conclusion of our services or, at our option, to satisfy delinquent monthly statements. We reserve the right to request further reasonable deposits if the initial payment is used to satisfy prior invoices. Any unused portion of the deposit will be refunded at the conclusion of the services.

**Termination of Services:** The Agreement may be terminated by the Client or the Consultant after seven days written notice should the other fail to perform its obligation hereunder. In the event of termination, the Client shall pay the Consultant for all services rendered to the date of termination, all reimbursable expenses, and termination expenses.

**Access to Site:** Unless otherwise stated, the Consultant will have access to the site for activities necessary for the performance of the services. The Consultant will take precautions to minimize damage due to these activities but have not included in the fee the cost of restoration of any resulting damage.

**Code Compliance:** The Consultant shall exercise usual and customary professional care in its efforts to comply with applicable laws, codes and regulations in effect as of the date of this agreement. Design changes made necessary by newly enacted laws, codes and regulations after this date shall entitle the Consultant to a reasonable adjustment in the schedule and additional compensation in accordance with the Scope of Service provisions of this Agreement.

**Assignment:** Neither party to this Agreement shall transfer, sublet or assign any rights or duties under or interest in this Agreement, including but not limited to monies that are due or monies that may be due, without the prior written consent of the other party. Subcontracting to subconsultants, normally contemplated by the Consultant as a generally accepted business practice, shall not be considered an assignment for purposes of this Agreement.

**Certification/Guarantee & Warranty:** The Consultant shall not be required to sign any documents, no matter by whom requested, that would result in the Consultant's having to certify, guarantee or warrant the existence of conditions whose existence the Consultant cannot ascertain. The Client also agrees not to make resolution of any dispute with the Consultant or payment of any amount due to the Consultant in any way contingent upon the Consultant's signing any such certification.

**Consequential Damages:** Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement.

**Construction Observation:** The Consultant may visit the site at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the Client and the Consultant, in order to observe the progress and quality of the Work completed by the Contractor. The Consultant shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work.

**Dispute Resolution:** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the Client and the Consultant agree that all disputes between them arising out of or relating to this Agreement or the Project shall be submitted to nonbinding mediation. If the dispute or any issues remain unresolved after good faith mediation by both parties, the parties agree to attempt resolution by submitting the matter to a court of competent jurisdiction.

**Applicable Laws:** Unless otherwise specified, this agreement shall be governed by the laws of the State of Missouri.

**Presence of Hazardous Materials:** The Client agrees, notwithstanding any other provision of this Agreement, to the fullest extent permitted by law, to indemnify and hold harmless the Consultant, its officers, partners, employees and subconsultants (collectively, Consultant) from and against any and all claims, suits, demands, liabilities, losses, damages or costs, including reasonable attorneys' fees and defense costs arising out of or in any way connected with the detection, presence, handling, removal, abatement, or disposal of any asbestos or hazardous or toxic substances, products or materials that exist on, about or adjacent to the Project site, whether liability arises under breach of contract or warranty, tort, including negligence, strict liability or statutory liability, regulatory or any other cause of action, except for the sole negligence or willful misconduct of the Consultant.

**Information Provided by Others:** The Client shall furnish, at the Client's expense, all information, requirements, reports, data, surveys, existing plans/specifications, existing geotechnical reports, and instructions required by this Agreement. The Consultant may use such information in performing its services and is entitled to rely upon the accuracy and completeness thereof. The Consultant shall not be held responsible for any errors or omissions that may arise as a result of erroneous or incomplete information provided by the Client and/or the Client's consultants and contractors.

**Limitation of Liability:** In recognition of the relative risks and benefits of the Project to both the Client and the Consultant, the risks have been allocated such that the Client agrees, to the fullest extent permitted by law, to limit the liability of the Consultant and Consultants officers, directors, partners, employees, shareholders, owners and subconsultants for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of the Consultant and Consultants officers, directors, partners, employees, shareholders, owners and subconsultants shall not exceed \$100,000.00, or the Consultant's total fee for services rendered on this Project, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

**Standard of Care:** In providing services under this Agreement, the Consultant shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality. The Consultant makes no warranty, either express or implied, as to the professional services rendered under this Agreement.

**Ownership of Instruments of Service:** The Client acknowledges the Consultant's construction documents, including electronic files, as the work papers of the Consultant and the Consultant's instruments of professional service. Nevertheless, upon completion of the services and payment in full of all monies due to the Consultant, the Client shall receive ownership of the final construction documents prepared under this Agreement. The Client shall not reuse or make any modification to the construction documents without the prior written authorization of the Consultant. The Client agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless the Consultant, its officers, directors, employees and subconsultants (collectively, Consultant) against any damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from or allegedly arising from or in any way related to or connected with the unauthorized reuse or modification of the construction documents by the Client or any person or entity that acquires or obtains the construction documents from or through the Client without the written authorization of the Consultant.

**Timeliness of Performance:** The Client and Consultant are aware that many factors outside the Consultant's control may affect the time to complete the services to be provided under this Agreement. The Consultant will perform these services with reasonable diligence and expediency consistent with sound professional practices.

**Unauthorized Changes to Plans:** In the event the Client, the Client's contractors or subcontractors, or anyone for whom the Client is legally liable makes or permits to be made any changes to any reports, plans, specifications or other construction documents, including electronic files, prepared by the Consultant without obtaining the Consultant's prior written consent, the Client shall assume full responsibility for the results of such changes. Therefore the Client agrees to waive any claim against the Consultant and to release the Consultant from any liability arising directly or indirectly from such changes.

# City of Moberly City Council Agenda Summary

Agenda Number: \_\_\_\_\_  
 Department: Parks and Recreation  
 Date: November 6, 2023

WS #11.

**Agenda Item:** Purchase Of Martin Property Near Heritage Hills Golf Course.

**Summary:** On June 5, 2023, this Council authorized the condemnation of land titled in the name of Matthew and Alicia Martin for park purposes. This piece of land is located adjacent to the Heritage Hills clubhouse. After forwarding the condemnation Ordinance to our attorney was finally able to make contact with the Martin's. They are willing to deed the property to the City in exchange for the total sum of \$10,000.00.

**Recommended Action:** To authorize purchase of the Martin land for \$10,000.00 and avoid the condemnation process.

**Fund Name:** Parks Admin > Land Acquisition Costs

**Account Number:** 115.044.5506

**Available Budget \$:** \$0

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>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<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>Lucas</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>Jeffrey</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			
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other:			
		Passed	Failed	

**TOWN & COUNTRY ABSTRACT CO., INC.**

541 West Coates Suite 101  
 Moberly, Missouri 65270  
 Phone 660-263-0425 Fax 660-263-1226  
 Email brad@townandcountryabstract.com

April 20, 2023

Mr. Troy Bock  
 City of Moberly  
 101 W. Reed Street  
 Moberly, MO 65270

Dear Mr. Bock,

As you requested, we searched the records of Randolph County, Missouri, pertaining to: **Starting at a point on the Southerly right of way of U. S. Highway Route 24 where intersected by the line between the East and West halves of the Southwest Quarter of Section 33, Township 54 North, Range 14 West, thence North 79 degrees 0 minutes West along said right of way line 105 feet, thence South 185.5 feet, thence South 79 degrees 0 minutes East 105 feet, thence North 185.5 feet to Point of Beginning, said tract being situated in the Northwest Quarter of the Southwest Quarter of Section 33, Township 54 North, Range 14 West in Randolph County, Missouri, except that part conveyed in Quit Claim Deed recorded December 31, 2009, in Book 728 at page 460. Coal underlying said land is excepted.**

**ALSO, a tract of land situated in the Northwest Quarter of the Southwest Quarter of Section 33, Township 54 North, Range 14 West, Randolph County, Missouri, and being more particularly described as follows: Commencing at the Southwest corner of said Section 33, thence South 88 degrees 16 minutes East a distance of 1318.86 feet to the Quarter Quarter Section line, thence North 01 degree 03 minutes East a distance of 2132.78 feet, thence North 74 degrees 04 minutes West a distance of 105.00 feet, thence North 01 degree 03 minutes East a distance of 25.82 feet to the Point of Beginning of the description herein, TO-Wit: Thence North 74 degrees 08 minutes West a distance of 10.74 feet, thence North 00 degrees 55 minutes East a distance of 184.30 feet to the South right of way line of Highway JJ, thence along said Highway, South 74 degrees 04 minutes East a distance of 11.17 feet, thence South 01 degree 03 minutes West a distance of 184.18 feet to the Point of Beginning. Coal underlying said land is excepted. Our search covered the period March 30, 2016, through April 10, 2023, and disclosed the following:**

**TITLE:** Title was vested in **Matthew Martin and Alicia Martin, husband and wife**, by Warranty Deed recorded March 30, 2016, in Book 849 at page 676.

**MORTGAGES:** None of record.

**MECHANICS' LIENS:** None of record.

**JUDGMENTS:** None of record against Matthew Martin or Alicia Martin.

**TAX LIENS:** None of record against Matthew Martin or Alicia Martin.

**REQUESTS FOR NOTICE OF SALE:** None of record.

**TAXES:** Taxes were paid for the year 2022 and prior. 2022 taxes were \$48.12.  
Parcel #07-8.0-33.0-0.0-000-022.001

Liability for this Ownership & Encumbrance Report is limited to the price paid the Company for this Report and that maximum liability is limited to the customer who placed the order with us.

Very truly yours,



Brad Goessling

**Statement**

<p>Date: April 20, 2023</p> <p>To: Mr. Troy Bock          City of Moberly          101 W. Reed Street          Moberly, MO 65270</p>	<p>Town &amp; Country Abstract Co. Inc.          Brad Goessling, President          541 W. Coates, PO Box 177          Moberly, MO 65270          660-263-0425          Fax 660-263-1226          brad@townandcountryabstract.com</p>
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<b><u>Real Estate</u></b>	
<p>Part of 33-54-14, Randolph County            3450 Hwy JJ, Moberly</p> <p>O &amp; E Report</p>	<p>\$100.00</p>
<p><b>Owners:</b> Matthew Martin and Alicia Martin, husband and wife</p>	
<p>Total</p>	<p>\$100.00</p>

# MOORE & SHRYOCK

## STANDARD APPRAISAL REPORT FORMAT

March 27, 2023



**Single-Family Property**  
3450 Route JJ  
Moberly, Missouri

File No. C2303012

## STANDARD APPRAISAL REPORT FORMAT

**County:** Randolph  
**Route:** Route JJ  
**Job No.:** N/A  
**Parcel No.:** 07-8.0-33.0-0.0-000-022.001  
**Property Address:** 3450 Route JJ, Moberly, Missouri  
**Area of Contiguous Ownership:** 19,478 square feet  
 (As estimated from Randolph County GIS)

**Acquisition:**

(As indicated on plans)

<b>Normal Land:</b>	Total Acquisition
<b>Controlled Land:</b>	N/A
<b>Fully Controlled Land:</b>	N/A
<b>Permanent Easement:</b>	N/A
<b>Temporary Easement:</b>	N/A
<b>Remainder:</b>	None

**Appraiser:** Kyle Newland, MAI

**Effective Date of Appraisal:** March 27, 2023

**1. Owner:**

Matthew and Alicia Martin  
 3450 East North Street  
 Emory, TX 75440

Contact:  
 Matthew Martin  
 903-466-3891

**Tenant-owner:** None

## 2. Purpose of Appraisal:

The purpose of this appraisal is to estimate just compensation, if any, due the owners as a result of appropriating certain realty rights as herein described.

**A. Fair Market Value Definition:** Fair market value is the value of the property taken after considering comparable sales in the area, capitalization of income, and replacement cost less depreciation, singularly or in combination, as appropriate, and additionally considering the value of the property based upon its highest and best use, using generally accepted appraisal practices. If less than the entire property is taken, fair market value shall mean the difference between the fair market value of the entire property immediately prior to the taking and the fair market value of the remaining or burdened property immediately after the taking. (RSMo 523.001)

### **Jurisdictional Exception to Standards Rule 1-2(c)**

**B. Intended Use:** The intended use of the appraisal report is to assist the agency in its determination of the amount paid for the property rights acquired or conveyed.

**C. Intended Users:** Intended users of this report are the City of Moberly (the client), and persons authorized by the client, state enforcement agencies and such third parties as may be authorized by due process of law, and a duly authorized peer review committee. Although the client may authorize a copy of this report be provided to the owner of the subject property of this appraisal for information and settlement purposes only, the owner is not an intended user as defined by USPAP.

**D. USPAP Compliance Statement:** This appraisal was prepared according to the contract/assignment from the City of Moberly. The client bears responsibility for contract/assignment requirements that meet its needs and therefore are not misleading. In combination with the Scope of Assignment and review function, all appraisal reports assigned by the client identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analysis necessary to produce a credible appraisal, and are therefore in compliance with USPAP Standard 1. In that the client is the intended user of the report and others may only be provided copies for informational purposes, the client has determined that reports prepared in conformance with these procedures constitute an Appraisal Report, which fulfills the client's needs. For any inconsistencies with USPAP, appraisers are protected by the USPAP Jurisdictional Exception provision.

## 3. Interest Appraised: Fee Simple

## 4. Scope of Work:

The scope of work is defined by USPAP as the type and extent of research and analyses in an assignment. The scope of work includes, but is not limited to, the extent to which the property is identified; the extent to which tangible property is inspected; the type and extent of data researched; and the type and extent of analyses applied to arrive at opinions or conclusions. In developing a real property appraisal, an appraiser must identify the problem to be solved, determine the scope of work necessary to solve the problem, and correctly complete research and analyses necessary to produce a credible value conclusion that will serve the needs of the client.

The first step is to identify the appraisal problem to be solved. This process starts with consultation with the client. Through consultation with the client the appraiser identifies any other intended users of the appraisal; intended uses of the appraiser's opinions and conclusions; type and definition of value; and effective date of the appraiser's opinions and conclusions. The appraiser identifies the subject of the assignment and its relevant characteristics and the assignment conditions. The assignment is a valuation service provided as a consequence of an agreement between an appraiser and a client. The assignment conditions include assumptions, extraordinary assumptions, hypothetical conditions, supplemental standards, jurisdictional exceptions, and other conditions that affect the scope of work.

The extent of research work completed for this report began with market data from the Moore & Shryock office files and factual information provided by the owner. The appraisers have made an investigation of additional comparable data sources including public records, personal contacts with buyers, sellers and developers familiar with similar properties, real estate brokers, other professional appraisers active in the area, property managers and mortgage lenders.

In preparation of this appraisal, the appraiser has:

1. Observed the interior and exterior of the subject improvements and surrounding area in order to gather information about the physical characteristics that are relevant to the valuation problem.
2. Assembled and analyzed pertinent economic data.
3. Identified and analyzed comparable property transactions. This data has been confirmed with the buyer, seller, another appraiser, or agent handling the transaction.
4. Reconciled the above research data to form our opinion of the fair market value for the subject property.

Moore & Shryock periodically is engaged in appraisal assignments involving properties similar to the subject of this report. The specific data and conclusions from these studies also provided valuable comparisons. This appraisal report includes the following items.

1. A description of the land and improvements being appraised.
2. A sales history of the subject property.
3. A summary of property trends in the local market including identification of current and projected competition and a forecast of effective demand.
4. A highest and best use analysis is based on a survey of the market, supply and demand factors, and examination of the feasibility of alternative uses.
5. The sales comparison approach was considered to arrive at a final opinion of value for the subject property. The cost approach was not considered as it is not relied upon by market participants for this property type given the age of the structure and depreciation estimates required. The income approach was not utilized due to the condition of the property and lack of market data available for properties in similar condition.
6. Appropriate photographs, maps, graphics and addendum/exhibits have been included to support our analyses and conclusions.

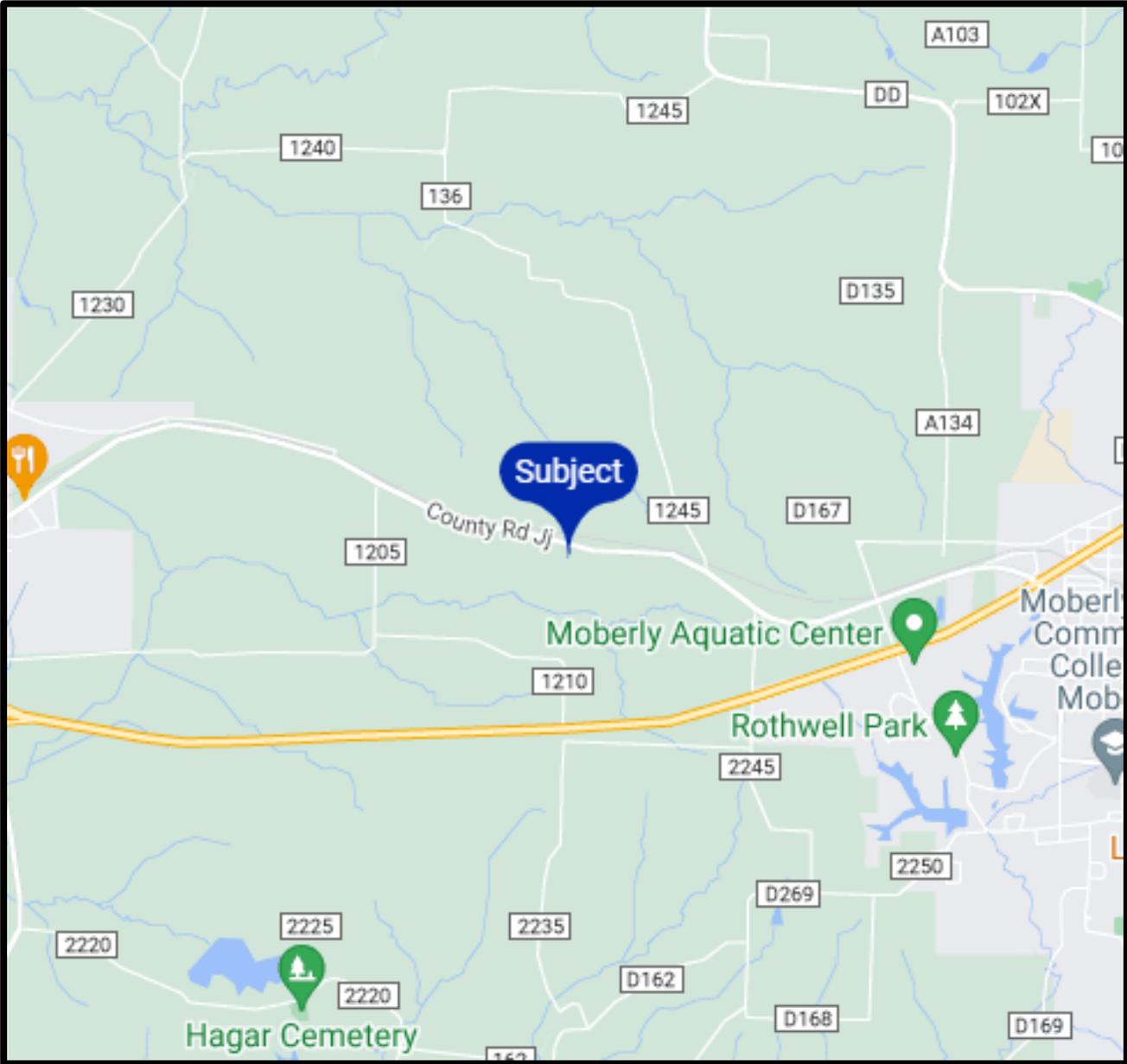
This report was prepared in conformance with the Scope of Assignment and the requirements of the format assigned.

**5. Identification of the Realty:**

3450 Route JJ, Moberly, Missouri

The subject is located west of Moberly, with the frontage along the south side of Route JJ. The site includes a total of 19,478 square feet (0.45 acre) and is improved with an 800 square foot single family dwelling over a full unfinished basement.

**LOCATION MAP**



## 6. History of the Property:

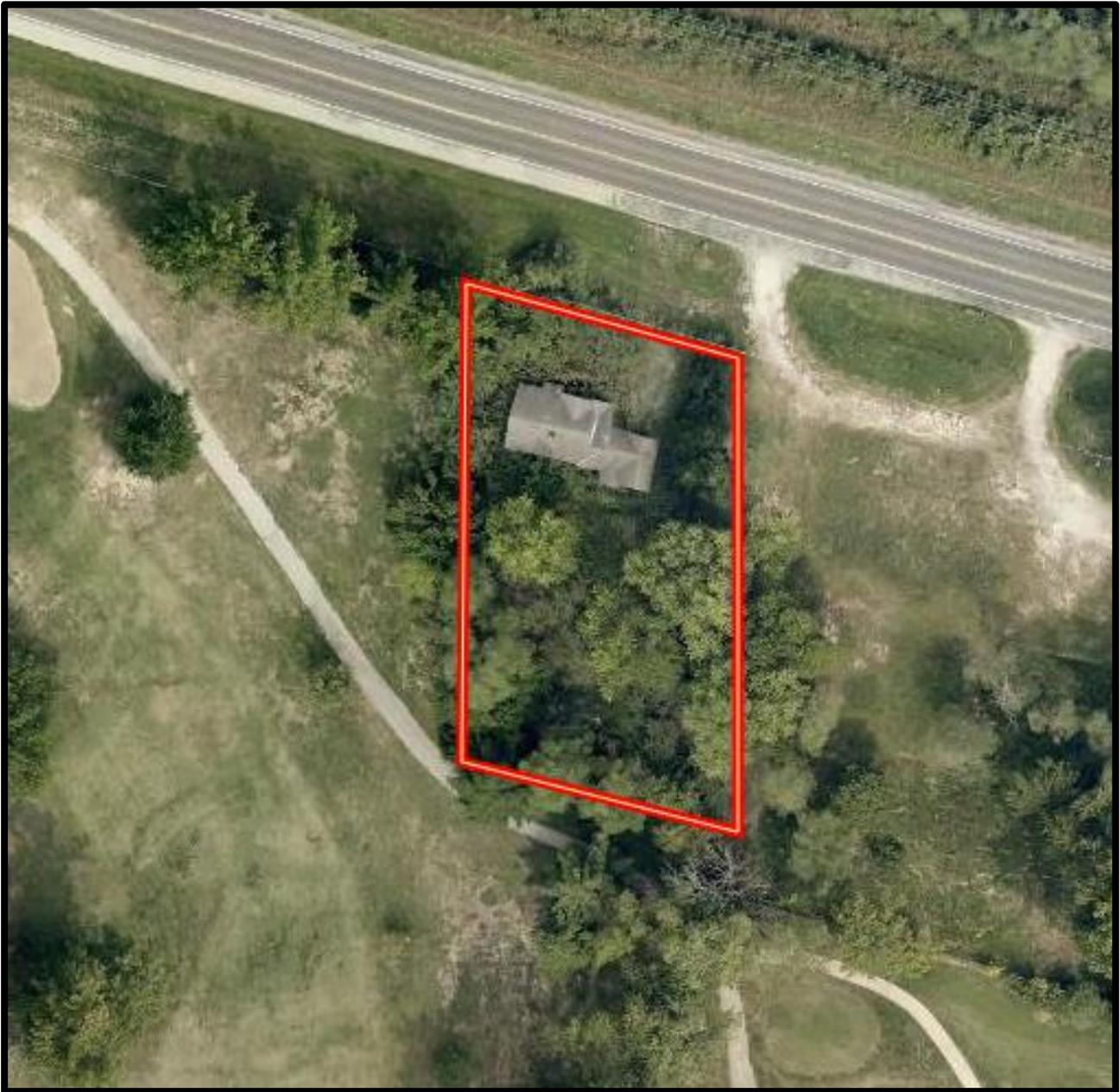
There have not been any transfers recorded within the last five years, and there are no current contracts, options, or listings known to exist. The property is currently unoccupied and appears to have been vacant for several years, and as a result of its condition, it is currently uninhabitable.

## 7. Description of Realty Prior to Acquisition:

### A. Land:

<b>Site Size/Dimensions:</b>	19,478 square feet (0.45 acre)
<b>Access:</b>	The site has accessibility from Route JJ along the east end of the north boundary.
<b>Frontage/Street Type:</b>	The site has 105 feet of frontage along the south side of Route JJ, which has two lanes, is asphalt paved, and publicly maintained.
<b>Configuration:</b>	Rectangular
<b>Topography/Drainage:</b>	Near level to gently sloping down to the southwest, with mature trees along the east boundary and throughout the rear of the site, while saplings and underbrush are prominent throughout the property, and a sizable mound of concrete debris was located at the front of the property.
<b>Flood Plain:</b>	None
<b>Utilities:</b>	Public water, electric, and gas are on site. The site also has a septic system that had historically facilitated the wastewater; however; said system was reportedly not functioning properly when it was last in use. It should be noted that there are plans for the property to be serviced by public sewer infrastructure; however, the funding and timing of said service remains uncertain.
<b>Visibility/Exposure:</b>	The site has average visibility and exposure from Route JJ.
<b>Traffic Count:</b>	Route JJ has an average traffic count of 2,850 cars per day.
<b>Easement/Encumbrances:</b>	None known to be adverse.
<b>Encroachments:</b>	None known.
<b>Environmental:</b>	As referenced in the Assumptions and Limiting Conditions to this report, the appraisers are not considered expert nor competent to assess environmental issues. Upon physical inspection of the subject property, no indication "to the untrained eye" of environmental hazard could be found. See extraordinary assumptions.

AERIAL MAP



**B. Zoning:**

There are no zoning regulations in the unincorporated area of Randolph County; therefore, the current residential use of the property is legally conforming.

**C. Fee Owned Improvements, Fixtures and Personalty:**

The subject is improved with a single-family dwelling. The age of the structure was not reported on the property record card; however, a prior listing reported it was constructed in 1950. The dwelling has a one-story design with a total of 800 square feet of living space, a full unfinished basement, two bedrooms and one bathroom, as well as a one car attached garage. The exterior of the dwelling is primarily painted wood siding, in addition to an asphalt shingle roof.

The exterior is in poor condition, with most of the exterior finishes in need of significant repairs. In addition, the subject property's interior is also in poor condition with numerous indicators of an extended period of deferred maintenance. It should be noted that the septic system was reportedly not functioning properly when it was last in use several years ago. Based on these considerations, it is assumed that the major building components (i.e. roof, windows, electrical, plumbing, & HVAC) are in need of replacement, and some lead paint and/or asbestos, as well as structural issues, may exist.

The building has a customary layout for its historical single-family use; however, given the extent of improvements needed for permanent occupancy, razing the existing structure to facilitate redevelopment of the site would likely improve the appeal and marketability of the property.

**D. Tenant Owned Improvements, Fixtures and Personalty:**

N/A

**E. Other Appraisal Considerations:**

N/A

## 8. Highest and Best Use Analysis Before Acquisition:

### AS VACANT

**Legally Permissible:** There are no zoning regulations in the unincorporated area of Randolph County; therefore, the historical residential use of the property is legally permissible.

**Physically Possible:** The site is 19,478 square feet (0.45 acre) in size with a rectangular configuration and partly wooded and near level to gently sloping terrain. The property is located along the Route JJ corridor, with surrounding uses predominantly consisting of single-family residences; however, the Heritage Hills Golf Course is adjacent to the south and west, while an active railroad corridor is located to the north, mobile home parks are farther east and west, and sales/service uses become more common farther east. Based on these considerations, the physical features of the site, location, and lack of zoning are best suited for a lower-priced single-family residence that would benefit from the proximity to the golf course.

**Financially Feasible:** The recent market trends and conditions for the local, regional, and national markets have been considered, which are summarized in the *Market Conditions Summary* section of the report. There are indications of historical demand within the neighborhood for similar type uses; however, high construction costs and elevated interest rates have had some adverse affect on said feasibility. Based on these considerations, the feasibility for new development within the subject neighborhood is below average, but development of a lower priced single-family residence would have the highest feasibility.

**Maximally Productive:** Taking into consideration the current economic conditions, in addition to the surrounding uses and physical features of the site, while also considering what uses are legally permissible, the highest and best use as though vacant is for development of a single-family residence.

**AS IMPROVED**

**Legally Permissible:** As previously stated there are no zoning regulations in the unincorporated area of Randolph County; therefore, the subject's most recent single-family use of the property was legally permissible.

**Physically Possible:** The site is improved with a single-family residence over a full unfinished basement, and the layout is most functional for its most recent use. Substantial improvements will be required to allow for permanent occupancy, but razing the existing structure to facilitate redevelopment of the site is also physically possible.

**Financially Feasible:** In determining the financial feasibility of the possible and permissible uses, the recent market trends and conditions for the local, regional, and national markets have been considered, which are summarized in the *Market Conditions Summary* section of the report. Considering the current condition, required improvements, and the prices achieved for older but renovated residences, the feasibility to renovate the property to facilitate its historical use is below average, and it is assumed that razing the existing structure to facilitate redevelopment of the site would have similar to slightly superior feasibility.

**Maximally Productive:** Taking into consideration the functional utility of the building, lack of zoning regulations, the current condition of the subject, as well as the location and current market trends, razing the existing structure to facilitate redevelopment of the site is the highest and best use of the subject property as improved. It is recognized that the competitive market could potentially be comprised of end users that would repurpose at least some of the structural improvements; however, given the specifics of the subject, this type of buyer would represent a small percentage of the overall market.

## 9. Valuation Before Acquisition:

### A. Sales Comparison Approach Before Acquisition:

As previously stated, the subject's highest and best use as improved is to raze the existing structures to facilitate redevelopment of the site; however, it is also recognized that the competitive market could potentially be comprised of end users that would repurpose at least some of the structural improvements. Based on these considerations, sales of improved properties that are the most similar in location, size, and condition were considered in reflecting the potential value to an end user who would rehabilitate the existing improvements, while sales of vacant lots, were also considered to reflect the value to an end user of the underlying land.

The three sales considered of improved properties include:

<b>Location</b>	<b>Size (SF)</b>	<b>Year Built</b>	<b>Sale Date</b>	<b>Sale Price (per SF)</b>
1323 Myra Street, Moberly	752	1915	2022	\$13.30
520 Patton Street, Moberly	1,100	1920	2021	\$9.09
928 Bond Street, Moberly	1,296	1925	2022	\$3.86
317 Hagood Street, Moberly	1,468	1880	2020	\$3.40

The four comparables sold at prices ranging from \$3.40 to \$13.30 per square foot; however, after adjusting for various elements of comparison, the sales support a market unit value range of \$4.08 to \$11.31 per square foot, which when applied to the subject's total area of 800 square feet equates to a potential value range of \$3,264 to \$9,048.

It should be noted that the adjustments do not reflect any consideration for the condition of the subject's existing septic system, which was reportedly not functioning properly when it was last in use several years ago, and thus is assumed to be in need of replacement to allow for permanent occupancy. This expense would not have been reflected within any of the sales considered as they all were serviced by public sewer, and given that an exact cost to cure is unknown, but could be substantial, all sales were denoted as superior in this regard, which will be considered further in the final reconciliation.

The four sales considered of unimproved properties include:

<b>Location</b>	<b>Size (Acre)</b>	<b>Sale Date</b>	<b>Sale Price (per acre)</b>
Quinn Street, Moberly	0.30	2022	\$35,000
South Main Street, Huntsville	0.57	2021	\$17,544
West Hinton Avenue, Moberly	0.48	2022	\$12,500
Highway BB, Huntsville	2.0	2021	\$8,950

The four comparables sold at prices ranging from \$8,950 to \$35,000 per acre; however, after adjusting for various elements of comparison, the sales support a market value range of \$12,500 to \$33,250 per acre, which when applied to the subject's total area of 0.45 acre equates to a potential value range of \$5,625 to \$14,963 for the underlying land assuming it were vacant and ready for construction.

It should be noted that the prospective of the underlying land would also consider the costs associated with clearing the site to permit redevelopment. This expense would not have been reflected within any of the sales considered as any improvements had already been cleared from their respective sites, and given that an exact cost to raze the structure is unknown, but could be substantial, all sales were denoted as superior in this regard, which will be considered further in the final reconciliation.

The two analyses indicate a potential value ranging from \$3,264 to \$14,963; however, said values do not reflect a discount to remediate or replace the on-site sewer system, or clear the site to permit redevelopment. These costs would be considered by the majority of the competitive market, and could potentially offset the majority, if not all, of the indicated value.

In addition to the two analyses, local real estate agents and brokers that were involved with the comparable sales were also interviewed regarding the subject and its potential marketability. In the interviews it was reported that the competitive market would also be comprised of prospective buyers that would not discount the potential value of the property much, if at all, as some may be willing to speculate on the property being serviced by public sewer infrastructure in the near future, while others could potentially have the necessary resources to clear the site at a substantially lower cost. Based on these considerations, the majority of the agents and brokers interviewed reported anticipated sales prices of the subject being towards the mid-to-lower end of the range indicated by the two analyses.

Taking into consideration the two analyses and their indications prior to any discount, while also considering the anticipated sales prices reported by the agents and brokers interviewed, as well as the specifics of the subject property, a fair market value of \$5,000 is adopted for the subject property. This conclusion considers that while some market participants would not fully discount the potential value of the property for clearing the site razing or septic system remediation/removal, that small segment of the market would also not be inclined to pay substantially more than the more probable buyers that would consider said costs that offset most, if not all, of the value of the property.

Before Value by Sales Comparison Approach: \$5,000

**B. Cost Approach Before Acquisition:**

Before Value by Cost Approach: N/A

**C. Income Approach Before Acquisition:**

Before Value by Income Approach: N/A

**10. Reconciliation of Value Before Acquisition:**

Only the sales comparison approach was considered applicable in the valuation of the subject property. This approach included a comparison of the subject with four improved sales and four land sales, while also considering multiple other sales, as well as interviews with local agents and brokers familiar with the subject property, which provide a well-supported value conclusion.

Total Value Before Acquisition: \$5,000

**11. Description of Property After Acquisition:**

The analysis assumes a total acquisition, thus, there is no remainder.

**12. Highest and Best Use of Remaining Realty:**

N/A

**13. Valuation After Acquisition:**

N/A

**14. Reconciliation of Value After Acquisition:**

N/A

**15. Estimate of Total Just Compensation:**

Estimated Value Before Acquisition: \$5,000

Estimated Value After Acquisition: \$0

Indicated Just Compensation Due to Acquisition: \$5,000

**16. Allocation of Just Compensation:**

A. Fee holder's interest:

1. Land Acquired:	Undefined	
2. Improvements:	Undefined	
3. Total Land and Improvements		\$5,000
4. Damages to the Remainder:	N/A	
5. Total Just Compensation Due Fee Holder		\$5,000

B. Tenant's interest:

1. Tenant-owned Improvements:	N/A	
2. Damage to Tenant-owned Improvements:	N/A	
3. Leasehold Interest:	N/A	
4. Total Leasehold Interest:	N/A	
5. Total Just Compensation Due Tenant-Owner:		N/A

**17. Uneconomic Remnant:** N/A

**18. Salvage Value:** N/A

**19. Required Attachments:**

## ASSUMPTIONS AND LIMITING CONDITIONS

This report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice, in the appraisal of realty and realty rights except to the extent that the *Uniform Appraisal Standards for Federal Land Acquisitions* required invocation of USPAP's Jurisdictional Exception Rule.

The appraiser assumes no responsibility for matters legal in character, nor does he/she render any opinion as to the title, which is assumed to be good. Unless otherwise specified in the report, the property is analyzed as though free and clear and under responsible ownership and competent management.

Information furnished by others is assumed to be true, correct and reliable. A reasonable effort has been made to verify such information; however, the appraiser assumes no responsibility for its accuracy. The value conclusions are subject to the correctness of said data.

The appraiser assumes that all applicable zoning and use regulations and restrictions have been complied with, unless nonconformity had been stated, defined, and considered in the appraisal report. The appraiser assumes that all required licenses, certificates of occupancy, consents, or other legislative or administrative authority from any local, state, or national government or private entity or organization have been or can be obtained or renewed for any use on which the value estimate contained in this report is based.

The appraiser has noted in the appraisal report any adverse conditions (such as, needed repairs, depreciation, the presence of hazardous wastes, toxic substances, etc.) observed during the inspection of the subject property or that he/she became aware of during the normal research involved in performing the appraisal. Unless otherwise stated in the appraisal report, the appraiser has no knowledge of any hidden or unapparent conditions of the property or adverse environmental conditions (including the presence of hazardous wastes, toxic substances, etc.) that would make the property more or less valuable, and has assumed that there are no such conditions and makes no guarantees or warranties, express or implied, regarding the condition of the property. The appraiser will not be responsible for any such conditions that do exist or for any engineering or testing that might be required to discover whether such conditions exist. Because the appraiser is not an expert in the field of environmental hazards, the appraisal report must not be considered as an environmental assessment of the property.

The appraiser has made no engineering survey. Except as specifically stated, data relative to size and areas were taken from sources considered reliable. The utilization of the land and improvements is within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.

The distribution of the total valuation in this report between land, improvements and estimated damages applies only under the reported highest and best use of the property. The allocations of value for land and improvements must not be used in conjunction with any other appraisal and are invalid if so used.

The appraisal is for purposes of valuation only and is not to be taken, used or represented as an endorsement or guarantee of the physical, structural or equipment conditions which exist in the property. It is assumed that there are no hidden defects that would not be apparent from visual inspection and that all equipment is operable unless otherwise indicated by the owner or owner's representative.

All maps, plats, and exhibits included herein are for illustration only, as an aid in visualizing matters discussed within the report. They should not be considered as surveys or relied upon for any other purpose.

Consideration has not been given in this appraisal to personal property located on the premises, or to the cost of moving or relocating such personal property unless otherwise stated.

Possession of this report or any copy hereof does not carry with it the right of publication, nor may the same be used for any purpose by any party except the named intended users without the previous written consent of the appraiser, and in any event, only in its entirety and with proper qualification. Neither all nor any part of the contents of this report shall be conveyed to the public through advertising, public relation, news, sales or other media without the written consent and approval of author. The appraiser acknowledges that a copy of the report will be provided to the owner of the property appraised, or their representative. No opinion is expressed as to the value of subsurface oil, gas, or mineral rights and that the property is not subject to surface entry for the exploration or removal of such materials except as is expressly stated. No consideration has been given in the appraisal to the value, if any, attributable to growing crops on any portion of the property appraised unless otherwise stated.

The estimated value after acquisition is based on the project being constructed in the manner proposed, as furnished to the appraiser as of the date of appraisal.

It is assumed that drainage, surface condition of land and easements, access, access during construction will not be detrimental to the value of the property, unless otherwise stated and addressed in the report.

## CERTIFICATE OF APPRAISER

I certify that, to the best of my knowledge and belief:

The statements of fact contained in the appraisal herein set forth are true, and the information upon which the opinions expressed herein are based, is correct.

The reported analyses, opinions, and conclusions as well as my opinion of Just Compensation, Fair Market Value, or other defined value are limited only by the reported assumptions and limiting conditions and are my personal, impartial, and unbiased professional analyses, opinions, and conclusions.

I have no direct or indirect present or contemplated future personal interest in such property or in any monetary benefit from the acquisition or disposal of such property appraised or the appraisal conclusion and no personal interest with respect to the parties involved.

I have not performed an appraisal service regarding the property that is the subject of this report within the three-year period immediately preceding acceptance of this assignment.

I have no bias with respect to the property that is the subject of this report or to the parties involved with this assignment.

My engagement in this assignment was not contingent upon developing or reporting predetermined results.

My employment or my compensation for completing this appraisal assignment and report are in no way contingent upon the development or reporting of a predetermined value or direction in value that favors the cause of the client, the amount of the value opinion, the attainment of a stipulated result, or the occurrence of a subsequent event directly related to the intended use of this appraisal.

My analyses, opinions, and conclusions were developed, and this report has been prepared in conformity with the Uniform Standards of Professional Appraisal Practice, in the appraisal of realty and realty rights except to the extent that the *Uniform Appraisal Standards for Federal Land Acquisitions* required invocation of USPAP's Jurisdictional Exception Rule.

I have personally inspected the realty rights, personalty, and/or outdoor advertising structures herein appraised and that I have also made a personal field inspection of the comparable sales, leases, equipment or structures, relied upon in making said appraisal. The subject and the comparable sales relied upon in making said appraisal were as represented in said appraisal or in the data book or report which supplements said appraisal.

As of the date of this report, I, Kyle Newland, have completed the requirements under the continuing education program of the Appraisal Institute.

The use of this report is subject to the requirements of the Appraisal Institute relating to review by its duly authorized representatives.

Joe Bruns provided significant real property appraisal assistance to the persons signing this certification, which included assisting during the exterior observation of the property and drafting the report.

I understand that such appraisal may be used in connection with the acquisition or disposal of realty, realty rights, and/or personalty for a project of the client with the possible involvement of Federal-aid highway or other Federal funds.

Such appraisal has been made in conformity with the appropriate State laws, regulations and policies and procedures applicable to appraisal of realty, realty rights, and/or personalty for such purposes; and that to the best of my knowledge no portion of the value assigned to such property consists of items that are noncompensable under the established law of said State.

I have not revealed the findings and results of such appraisal to anyone other than the intended users, and I will not do so until so authorized by said officials, or until I am required to do so by due process of law, or until I am released from this obligation by having publicly testified as to such findings.

Invoking the Jurisdictional Exception Rule and contrary to Standards Rule 1-3(a) and Standards Rule 1-4(f), I have disregarded any increase or decrease in the fair market value of the property to be acquired, prior to the date of valuation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable control of owner(s). 49 CFR 24.103

My estimate of Just Compensation, Fair Market Value, or other defined value, as shown herein does not include any consideration or allowance for relocation assistance benefits.

I have afforded the fee holder or the fee holder's representative, an opportunity to accompany me during prior inspection and have not received a response, thus no attempt to make contact was made. There are no tenant owner's known to exist.

My opinion of Just Compensation, Fair Market Value, or other defined value, is based upon my independent appraisal and the exercise of my professional judgment.

*Kyle Newland*

\_\_\_\_\_  
April 5, 2023  
DATE

\_\_\_\_\_  
Kyle Newland, MAI  
License No. 2011014420

County: Randolph  
Route: Route JJ  
State Project No.: N/A  
Federal Project No.: N/A  
Address: 3450 Route JJ, Moberly, Missouri



# MOORE & SHRYOCK

WS #11.

## QUALIFICATIONS OF KYLE NEWLAND

APPRAISER, PARTNER

[knewland@ms-app.com](mailto:knewland@ms-app.com)

2419 Hyde Park Road Suite A, Jefferson City, MO 65109  
(573) 635-4922 | ms-app.com

### EDUCATION

#### University of Missouri — Columbia

- Bachelor of Science
  - Dual Emphasis in Finance & Banking and Real Estate

### EXPERIENCE

#### Moore & Shryock, LLC

- Intern (2008)
- Appraiser (2009-2016)
- Appraiser & Partner (2017 – present)

#### Appraisal Institute – St. Louis Chapter

- Board Member (2015 - 2017)

### CERTIFICATIONS

#### Appraisal Institute

MAI Designated Member (#514832)

#### State of Missouri Certified General Appraiser

Certificate 2011014420

### BACKGROUND

Mr. Newland has provided appraisal and consulting services throughout Missouri, Illinois, and Arkansas involving most property types. In addition to the land, multifamily, office, retail, and industrial properties appraised in Cole County and surrounding communities, he is the lead appraiser for Moore & Shryock for the following specialty properties: subdivisions, dealerships and large industrial. Please refer to his profile on our website for an up to date list of qualifying and continuing education completed.



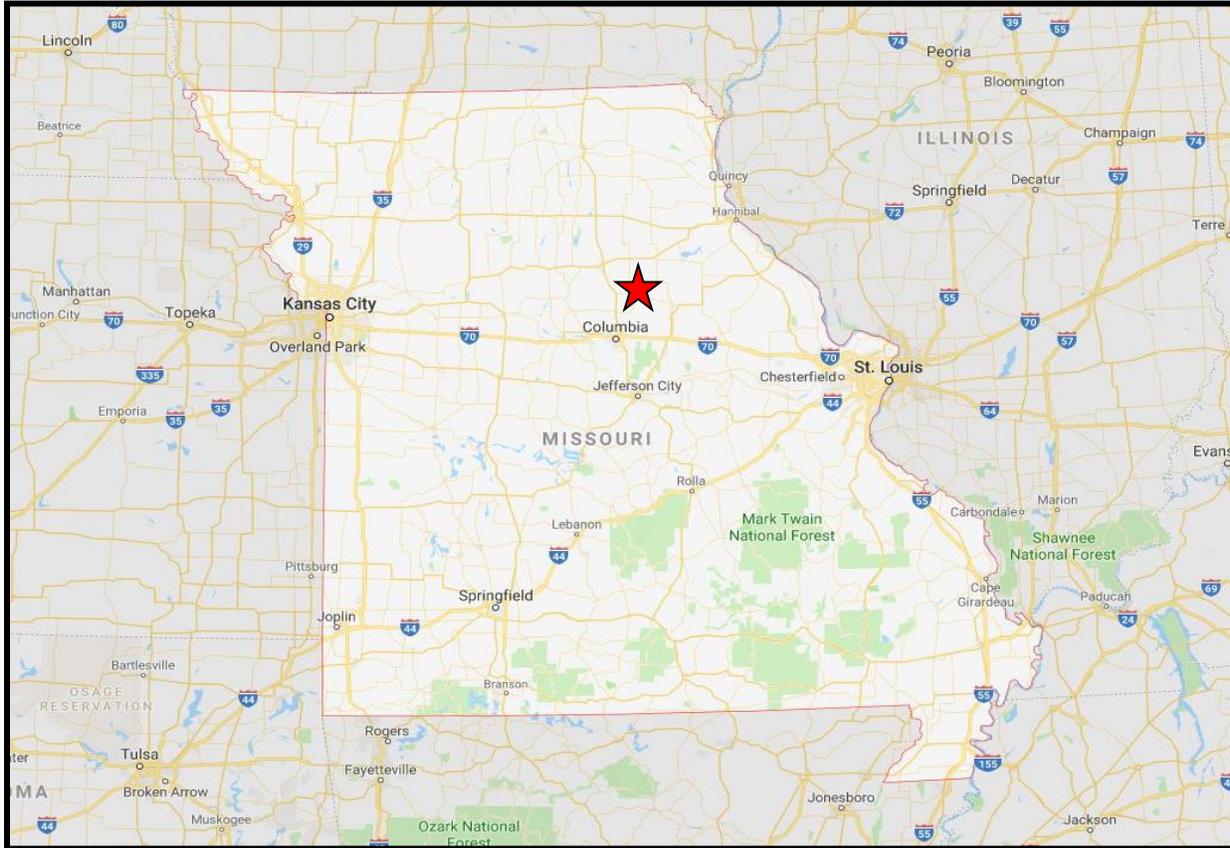
The Appraisal Institute and the State of Missouri conduct a program of continuing education for its members. Appraisers who meet the minimum standards of this program are awarded periodic educational certification. **Mr. Newland is certified under these programs.**

**LICENSE FOR KYLE NEWLAND**



## AREA DESCRIPTION

The subject property is near Moberly, Missouri, which is the largest city in Randolph County. Moberly is in the central east sector of Randolph County, with the county being centrally located in the northern half of the state. The county is bound on the north by Macon County, on the east by Monroe and Audrain Counties, on the south by Boone and Howard Counties and on the west by Chariton County. Moberly's approximate distance to the major metropolitan areas of Kansas City and St. Louis is 130 miles and 150 miles, respectively. Columbia is located approximately 35 miles to the south.



Randolph County was organized in 1829. The first rail line to pass through the county was built in 1850. The advent of the railroad had a major impact upon development of the county. The area is still served with several daily freight stops. The county's population increased sharply in the 1890's as miners immigrated to newly discovered coalfields in the area. Randolph County had some of the largest coal deposits in Missouri; however, coal mining has largely diminished today. Limestone extracted for use as gravel and agricultural lime is also a significant resource in the county.

Farming is a primary economic enterprise in Randolph County. About 42% of the acreage in the county is cropland, and approximately 32% is pasture. The landscape in Randolph County is one of gently sloping to moderately sloping uplands. The main crops are corn, soybeans, wheat, and grasses. The primary livestock is beef cattle.

The population in Moberly has remained mostly steady since 1990, similar to the population of Randolph County and the State of Missouri. However, declining populations are noted in some northern counties of Missouri. Those counties with access to four lane highways, such as Highway 63, have fared better than others. Moberly has been reasonably successful in their efforts to attract new industries and retain existing ones. New and expanding industries have provided jobs in manufacturing, distribution, and office sectors. The agreement includes a taxable \$85 million industrial development revenue bond backed by the city to complete the project and two or more tax exemptions. The population history of Moberly, Randolph County, and the State of Missouri are highlighted below.

<b>Population</b>	<b>1990</b>	<b>2000</b>	<b>2010</b>	<b>2020</b>
State of Missouri	5,117,073	5,595,211	5,988,927	6,154,913
<i>Average Annual % Change</i>		<i>0.9%</i>	<i>0.7%</i>	<i>0.3%</i>
Randolph County	24,370	24,663	25,414	24,716
<i>Average Annual % Change</i>		<i>0.1%</i>	<i>0.3%</i>	<i>-0.3%</i>
City of Moberly	12,839	11,945	13,974	13,783
<i>Average Annual % Change</i>		<i>-0.7%</i>	<i>1.7%</i>	<i>-0.1%</i>

Moberly is designated as an Enhanced Enterprise Zone allowing for tax credits for new businesses or expanding businesses in certain industries such as warehousing, distribution, wholesale trade, materials recovery facilities, manufacturing and mining. Any other business enterprise that creates and maintains 50 or more full time jobs, excluding retail, eating and drinking establishments, and gaming operations can also apply. A list of Randolph County’s businesses with at least 100 employees follows.

## RANDOLPH COUNTY MAJOR EMPLOYERS

<u>Employer</u>	<u>Product/Service</u>	<u>Employment</u>
Moberly Correctional Facility	Medium Security Prison	510
Moberly Regional Medical Center	Medical - Level III Trauma Center	434
Wal-Mart Perishable Food DC	Food Distribution	405
Moberly Area Community College	Education	400
Orscheln Products	Motion Control Systems	343
Mid-Am Building Supply	Building Materials	322
Associated Electric	Power Generation	274
General Electric Capital Corporation	Commercial Leasing	180
Dura Automotive	Auto Parts	143
Wilson Trailer	Semi-Trailers	130
Central Christian College of the Bible	Education	110
Everlast	Gymnasium Equipment	106

The Randolph County unemployment rate as of January 2023 was 2.8%. The unemployment rate statewide was 2.6% as of the same time period. These unemployment statistics are not seasonally adjusted. Building permits issued in Moberly range from 11 to 25 for single family residences and 3 to 11 for duplexes over the past 5 years as detailed below.

<b>Year</b>	<b>Single Family Permits</b>	<b>Duplex Permits</b>
2021	21	11
2020	25	9
2019	20	5
2018	25	3
2017	11	6

The economy of Moberly declined in 2007-2010 along with other parts of out-state Missouri, however, the job creation which has occurred in recent years has largely served to replace jobs that had been lost due to plant closings, downsizing and business relocations. The economy of the area is reasonably well diversified, but unemployment remains slightly above state averages. Many persons in Moberly are employed in Columbia, which has a lower unemployment rate.

Recent commercial real estate activity in Moberly is concentrated near the Highway 24 intersection with Highway 63. A Wal-Mart Supercenter and a Lowes Home Improvement Center, that was developed near Wal-Mart in 2010, are the focal points of this development. Other recent developments near this intersection include a new Plaza Tire that was constructed in 2016 and a recently completed KFC, Wendy's and a Scooter's Coffee. Various other new retail and office construction is on-going or has been recently completed in Moberly. However, most of this new development is along the Highway 24 and Morley Street corridors, in northern Moberly.

Industrial development has been concentrated along Route DD in past years, but the Moberly Area Industrial Park and the southeastern Moberly Industrial Park, located at Route M and Highway 63, are the locations for recent construction, including the new Swift Prepared Foods facility and several distribution warehouse facilities.

Competition for new industry is extremely competitive and cities like Moberly must be well-organized and very aggressive in order to secure employers. Moberly has a well-organized economic development organization but has struggled to secure new industry.

Excluding the new Swift Prepared Foods facility, new construction in the Moberly area includes the 2015 Mid-Am Building Supply addition of 30,000 square feet to the existing building on the south end of the city for a new interior door finishing facility. MFA Oil announced plans in early 2015 to move their truck shop, lab and maintenance warehouse from Columbia to Moberly, and to move their distribution center from California, MO to Moberly. The first phase of the new facility became operational in 2015. Also, in early 2015, Orscheln Products announced construction of a new 15,000 square foot test laboratory, which includes mechanical, environmental, vibration, electronics and corrosion testing capabilities. In addition, Orscheln's corporate offices and distribution center will be sold in May of 2023, affecting 122 jobs, although only 32 jobs will be eliminated.

Overall, the local economy has improved since 2011 with recent stabilization. Recent construction, commercial land purchase activity, and interviews with local market participants suggest further improvement in the local market in the last few years.

## MARKET CONDITIONS – 1ST QUARTER 2023

The following analysis is broken down between a discussion of the current economy, the general real estate market, and individual property segments. The scope of this analysis included interviews with Realtors, lenders, property managers, buyers/sellers, and other appraisers across the state. We have also considered information and data from national real estate sources such as PWC, Marcus and Millichap, the Appraisal Institute, Real Estate Research Corporation, Green Street and Co-Star as well as our experience with market conditions since 1983.

As of March 2020, the Covid-19 threat began impacting real estate market conditions. The lockdowns and other restrictions to contain the pandemic severely impacted the economy. While most segments of the economy have recovered the governmental efforts to support the recovery, other factors have led to high inflation over the past year. To combat inflation, the Federal Reserve has raised interest rates over the past few months which are now adversely affecting many market segments. Higher interest rates are having a negative impact on the real estate market with slower residential sales and lower commercial property values already occurring in most segments. The December rate increase was the first rate hike below 0.75% and a 0.25% to 0.50% increase is now expected on February 1.

The consumer price index edged higher by 0.1% in November, as the trend of disinflation that began in July completed its fifth straight month of favorable data. Although the year-over-year inflation rate remains elevated at 7.1%, it has shown progress since peaking in June at an annual rate of 9.1%. Annualized inflation since July has been only 2.6%.

The foundation for real GDP growth consists of two core elements, labor force growth and productivity growth. The population growth and labor force growth have not changed. The Conference Board forecasts that economic weakness will intensify and spread more widely throughout the US economy over the coming months, leading to a recession starting in early 2023. This outlook is associated with persistent inflation and the Federal Reserve remaining hawkish. They forecast that real GDP growth will be 2.0 percent year-over-year in 2022, slow to 0.2 percent in 2023, and then rebound to 1.7 percent in 2024.

The US economy, and the US consumer, have been defying expectations. US consumer spending continued to support GDP growth despite the dual headwinds of rising interest rates and high inflation. Additionally, upward revisions to Q3 2022 GDP data show stronger economic momentum in H2 2022. For these reasons, Conference Board upgraded their forecast for Q4 2022 to 1.9 percent, vs. 0.7 percent. However, they still expect that the US economy will fall into recession soon and currently anticipate three quarters of negative GDP growth starting in Q1 2023. However, this downturn will be relatively mild and brief, and growth should rebound in 2024 as inflation ebbs further and the Fed begins to loosen monetary policy.

The NAHB Housing Market Index has continued to edge down and fell in November to 33. This is the lowest level since May 2020 and excluding the pandemic, its lowest reading since 2012. These readings confirm our view that the ongoing monetary tightening is decidedly reducing the level of housing demand, which is a goal of the Fed. The NAHB Chair observed that “higher rates have significantly weakened demand for new homes as buyer traffic becomes increasingly scarce”. The rate increases have had the greatest impact on the housing market and all segments

related to housing development as low-mortgage rate owners decide to remain in their existing homes.

Building permits declined 2.4% in October. Single family permits fell 3.6% and multifamily permits decreased by 0.5%. Housing starts fell 6.1%.

According to the National Association of Realtors:

- Existing-home sales fell for the tenth consecutive month to a seasonally adjusted annual rate of 4.09 million. Sales slipped 7.7% from October and 35.4% from the previous year.
- The median existing-home sales price rose to \$370,700, an increase of 3.5% from one year ago.
- The inventory of unsold existing homes retreated for the fourth straight month to 1.14 million at the end of November, or the equivalent of 3.3 months' supply at the current monthly sales pace.

On the commercial side, the PWC 4<sup>th</sup> Quarter 2022 investor survey indicated that confronted with inflation, rising interest rates, economic uncertainty, and a slowdown in tenant demand, most surveyed investors expect property values to decline over the next 12 months, especially in the Survey's office markets. "There is certainly repricing occurring throughout the marketplace," comments an investor. What might be surprising, however, is the extent to which these declines have deepened over the past three months. Last quarter, 22 of the 35 Survey markets analyzed reported negative forecast value change averages ranging from -0.3% to -7.1%, resulting in a composite average decline of -0.9%. Fast forward three months and 33 of the 35 Survey markets report negative forecast value change averages ranging from -0.3% to -12.3%, equating to a composite average decline of -3.5%. "Higher cap rates and sluggish leasing activity are hurting property values," remarks another investor.

In the fourth quarter of 2022, the average overall capitalization (cap) rate increases in 30 Survey markets, decreases in one, and holds steady in four compared to last quarter. For all markets, the average change is a 15-basis-point increase. When looking at changes from a year ago, more noticeable differences are observed. Specifically, nearly 66.0% of the market averages are higher today than they were a year ago with an average increase of 34 basis points.

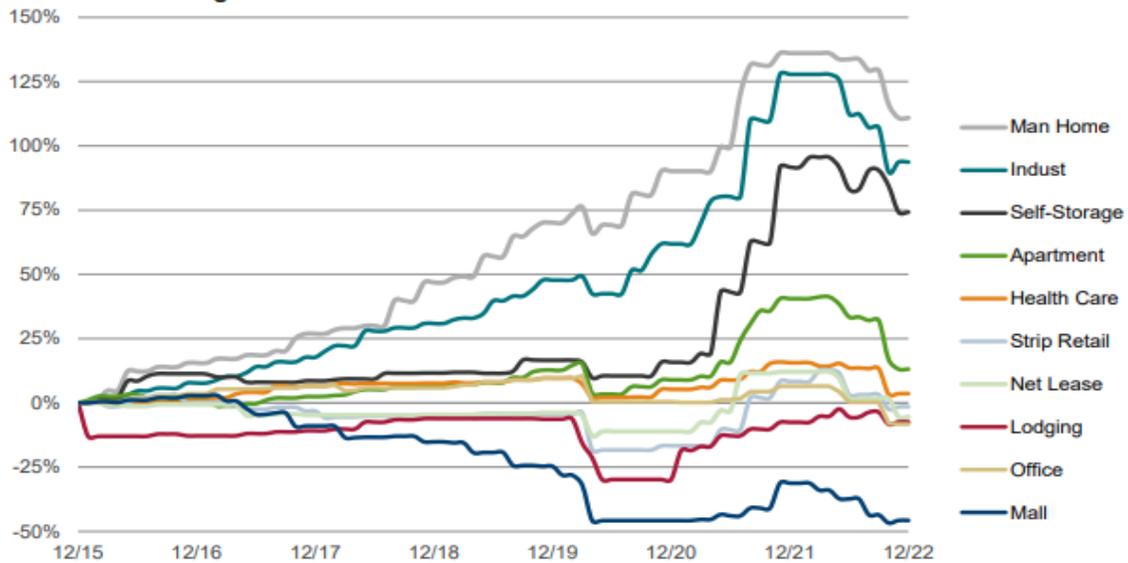
<b>OVERALL CAPITALIZATION RATE ANALYSIS</b>							
Fourth Quarter 2022							
	<b>OVERALL CAP RATES</b>		<b>BASIS-POINT CHANGE</b>		<b>EXPECTED SHIFT (IN SIX MONTHS)*</b>		
	Range	Average	Quarterly	Year Ago	Increase	Decrease	Hold Steady
<b>National Markets</b>							
Regional Mall	5.00% – 12.50%	7.33%	10	10	0%	0%	100%
Power Center	5.25% – 7.50%	6.43%	0	-20	50%	25%	25%
Strip Shopping Center	5.00% – 10.00%	7.33%	19	16	50%	0%	50%
CBD Office	4.25% – 7.50%	5.75%	5	-5	100%	0%	0%
Suburban Office	4.25% – 7.75%	6.00%	3	-19	50%	0%	50%
Net Lease	5.00% – 7.50%	6.23%	10	1	75%	0%	25%
Medical Office Buildings	5.00% – 10.00%	6.85%	16	49	80%	0%	20%
Secondary Office	6.00% – 9.25%	7.31%	8	-21	83%	0%	17%
<b>Warehouse Markets</b>							
National	2.00% – 6.25%	4.43%	14	12	64%	0%	36%
East Coast Region	3.20% – 5.25%	4.02%	13	-29	33%	0%	67%
East North Central Region	3.50% – 4.50%	4.18%	18	-35	25%	0%	75%
Pacific Region	3.00% – 5.50%	4.15%	35	52	40%	0%	60%
<b>Apartment Markets</b>							
National	3.25% – 8.00%	4.89%	14	47	89%	0%	11%
Mid-Atlantic Region	4.00% – 6.50%	4.98%	28	40	40%	0%	60%
Pacific Region	3.25% – 5.00%	4.15%	5	35	50%	0%	50%
Southeast Region	4.00% – 5.00%	4.30%	30	2	100%	0%	0%

The Green Street Commercial Property Price Index® was unchanged in December. The index—a measure of pricing for a broad spectrum of institutional quality properties—declined 13% in 2022. “It was a tough year for commercial property as sharply higher borrowing costs caused values to fall despite healthy rent growth,” said Peter Rothmund, Co-Head of Strategic Research at Green Street. “And though the correction has been sizable, cap rates will probably continue to go up. They still look low when compared to yields on corporate bonds.”

### Green Street CPPI®: Sector-Level Indexes

	Index Value	Change in Commercial Property Values		
		Past Month	Past 12 Mos	Recent Peak
All Property	134.3	0%	-13%	-13%
Core Sector	134.4	0%	-16%	-16%
Apartment	152.7	0%	-19%	-20%
Industrial	215.8	0%	-15%	-15%
Mall	77.1	0%	-21%	-21%
Office	97.9	0%	-14%	-14%
Strip Retail	115.2	0%	-9%	-13%
Health Care	134.9	0%	-10%	-10%
Lodging	107.6	0%	0%	-5%
Manufactured Home Park	289.2	0%	-11%	-11%
Net Lease	97.6	0%	-16%	-16%
Self-Storage	278.8	0%	-9%	-11%

### Cumulative Change in CPPI®: Past Seven Years



All Property: retail (20%), office (17.5%), apartment (15%), health care (15%), industrial (12.5%), lodging (7.5%), net lease (5%), self-storage (5%), manufactured home park (2.5%). Retail is mall (50%) & strip retail (50%).

Core Sector: apartment (25%), industrial (25%), office (25%), and retail (25%)

Health care: medical office (30%), senior housing operating properties (25%), senior housing net leased (20%), skilled nursing (15%), and life science (10%)

Some businesses did not recover from the pandemic, and this event will likely solidify some existing trends, such as online shopping, working from home, online education, better mobile products, artificial intelligence, etc. Further acceleration of these trends could adversely affect demand for retail, office, and hospitality. At this point, there is limited distressed property that has come to the market in out-state Missouri.

In summary, the economy has displayed a high level of resilience as it moved past the pandemic. Continued record inflation and the war in Ukraine are creating unprecedented market conditions. Columbia, Jefferson City, and central Missouri are part of a relatively recession resistant local economy based on medical services, education, governmental services, and insurance/banking. While these markets have rebounded from the downturn and changes in demand are becoming clear, however, other economic hurdles have materialized including inflation, higher interest rates, and labor shortages.

## **NEIGHBORHOOD DESCRIPTION**

The subject property is located northwest of the Moberly city limits and along the Route JJ corridor with Highway 24 located to the south. The subject neighborhood is defined as those properties west of Moberly and within the west side of the city limits, including those areas along or near the Route JJ corridor.

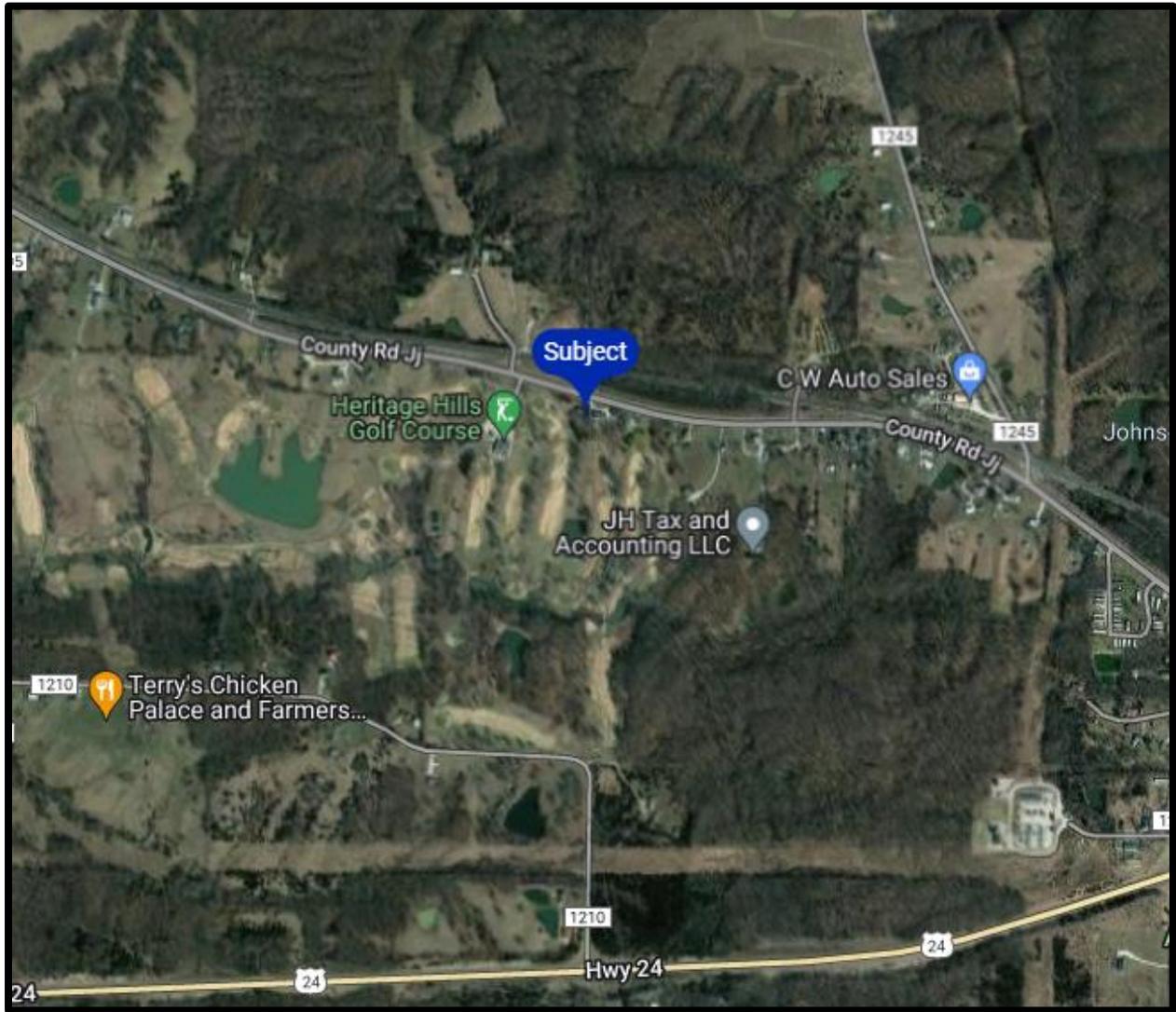
The Route JJ corridor extends east/west and runs parallel with Highway 24 from Moberly to Huntsville. Highway 24 is the primary thoroughfare through northern Moberly, and also connects Moberly with smaller rural communities throughout northern Missouri. In the city limits of Moberly, this corridor includes some of the more regional oriented type development including Orschelns Farm & Home, Walmart, Lowes, regional/national anchored shopping centers, motels, as well as fast food and casual dining restaurants. Most of this development is located near the Highway 63 interchange, with development further away transitioning to more local type office, retail, and sales/service type development.

The subject is located on the south side of Route JJ adjacent to the Heritage Hills Golf Course to the west and south. To the east of the subject are single-family residences and a mobile home park. On the north side of Route JJ is an active railway, residential properties on small acreage tracts, as well as an auto sales and salvage business.

Moberly is located approximately 2 miles east of the subject, while Huntsville is located approximately 3 miles to the west. Properties near and at the Route JJ and Highway 24 intersection include various automotive sales/service facilities, a church, a mobile home park, as well as other sales/service type businesses. Properties along Highway 24 include Rothwell Park, Howard Hills Athletic Complex, and some single-family residences on larger acreage tracts. The area near the intersection of Route JJ and Route C includes the Randolph County courthouse, several smaller sales/service type uses Dollar General, and some single-family residences. Most of the area to the east of the subject is more densely populated and includes more commercial type uses, while the area to the west is less dense with most of the properties being residences on acreage tracts.

The neighborhood has a rural location with close proximity to Huntsville and Moberly, as well as Highway 24. Route JJ provides good access to the nearby towns and their conveniences. New development continues to remain slow; therefore, limited change is expected in the near term due to historical development trends.

# NEIGHBORHOOD MAP



**SUBJECT PHOTOGRAPHS**



Front view



Rear view



Kitchen



Bathroom



Bedroom



Bedroom

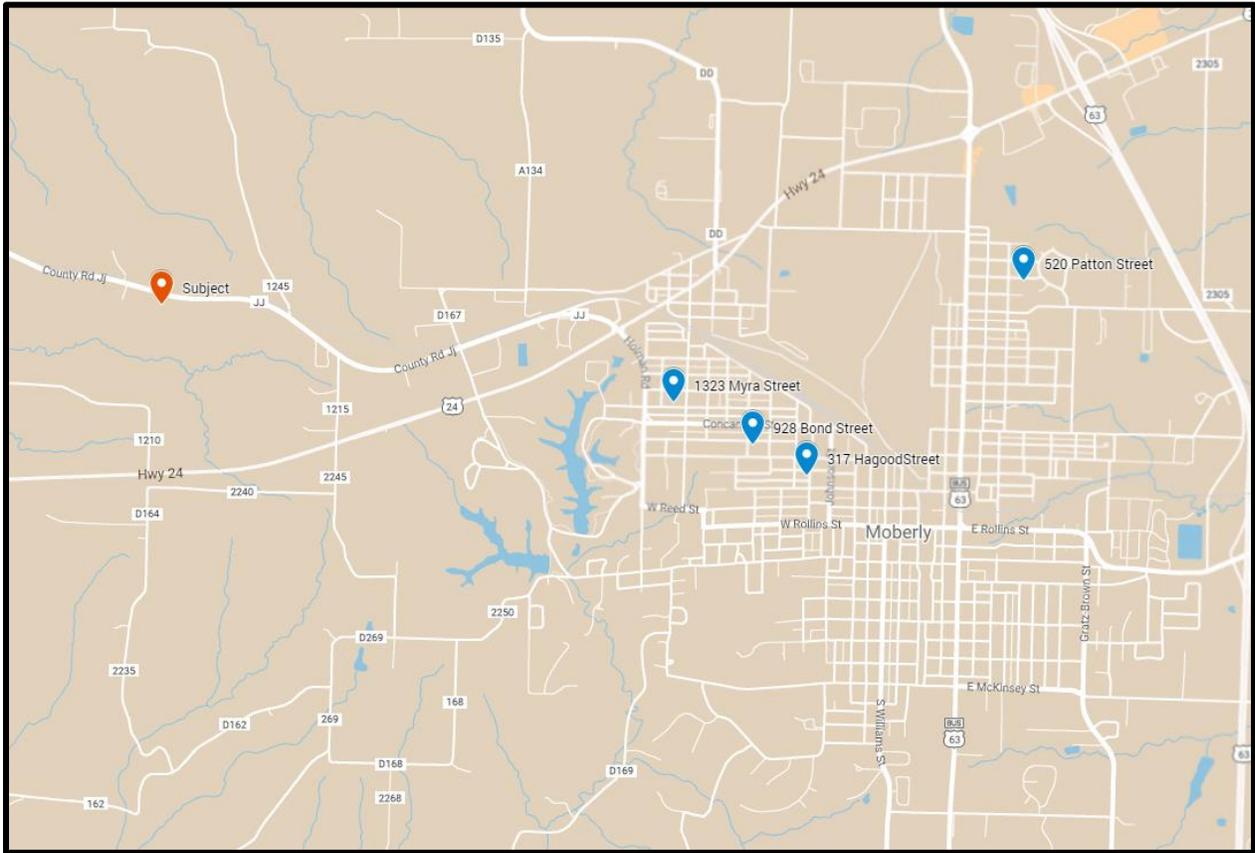


Route JJ to the west



Route JJ to the east

# IMPROVED SALES MAP



## IMPROVED SALE

### PROPERTY IDENTIFICATION

**Address:** 1323 Myra Street  
**City/State:** Moberly, MO  
**County:** Randolph



### SALE INFORMATION

**Date of Sale:** 08/05/2022  
**Grantor:** A 1 Rentals Properties, LLC  
**Grantee:** Zane Lee Crigler  
**Book/Page:** 937/2555  
**Verified By:** MLS

**Sale Price:** \$10,000  
**Price per SF:** \$13.30

### PROPERTY DESCRIPTION

<b>Property Type:</b> Single Family	<b>Land Area SF:</b> 7,000
<b>Gross Bldg Area:</b> 752	
<b>Year Built:</b> 1915	
<b>Condition:</b> Below Average	<b>Parking Surface:</b> Gravel
<b>Quality:</b> Below Average	<b>Parking Spaces:</b> Driveway

### COMMENTS

The residence included a partial basement, and was habitable, but still had a notable amount deferred maintenance including a soiled carpets and damaged walls. The property was listed for \$15,000 and went under contract after 67 days on the market, and appeared to be subsequently occupied.

## IMPROVED SALE

### PROPERTY IDENTIFICATION

**Address:** 520 Patton Street  
**City/State:** Moberly, MO  
**County:** Randolph



### SALE INFORMATION

**Date of Sale:** 11/24/2021  
**Grantor:** Gary W. Specie  
**Grantee:** Greg Robinson  
**Book/Page:** 932/2648  
**Verified By:** MLS

**Sale Price:** \$10,000  
**Price per SF:** \$9.09

### PROPERTY DESCRIPTION

<b>Property Type:</b> Single Family	<b>Land Area:</b> 15,000 sf
<b>Gross Bldg Area:</b> 1,100	
<b>Year Built:</b> 1920	
<b>Condition:</b> Poor to Below Average	<b>Parking Surface:</b> Concrete
<b>Quality:</b> Below Average	<b>Parking Spaces:</b> Carport

### COMMENTS

The residence included a crawl space, and was habitable, but still had a significant amount deferred maintenance including a soiled carpets and damaged walls. The property was listed for \$17,000 and went under contract after 72 days on the market, and appeared to be subsequently occupied.

## IMPROVED SALE

### PROPERTY IDENTIFICATION

**Address:** 317 Hagood Street  
**City/State:** Moberly, MO  
**County:** Randolph



### SALE INFORMATION

**Date of Sale:** 05/27/2020  
**Grantor:** Federal Home Loan Mortgage Corp.  
**Grantee:** Beyond the Conviction  
**Book/Page:** 921/3280  
**Verified By:** Agent

**Sale Price:** \$5,000  
**Price per SF:** \$3.40

### PROPERTY DESCRIPTION

<b>Property Type:</b>	Single Family	<b>Land Area SF:</b>	13,200 sf
<b>Gross Bldg Area:</b>	1,468		
<b>Year Built:</b>	1880		
<b>Condition:</b>	Poor to Below Average	<b>Parking Surface:</b>	Concrete
<b>Quality:</b>	Below Average	<b>Parking Spaces:</b>	Driveway

### COMMENTS

The residence included a full basement, and was not habitable with significant deferred maintenance including a substantial amount of mold throughout parts of the house. The property was listed for \$7,900 and went under contract after 34 days on the market, and appeared to be subsequently renovated and occupied.

## IMPROVED SALE

### PROPERTY IDENTIFICATION

**Address:** 928 Bond Street  
**City/State:** Moberly, MO  
**County:** Randolph



### SALE INFORMATION

**Date of Sale:** 04/22/2022  
**Grantor:** Steven N. Sartain  
**Grantee:** Manuel Castillo  
**Book/Page:** 935/2542  
**Verified By:** Agent

**Sale Price:** \$5,000  
**Price per SF:** \$3.86

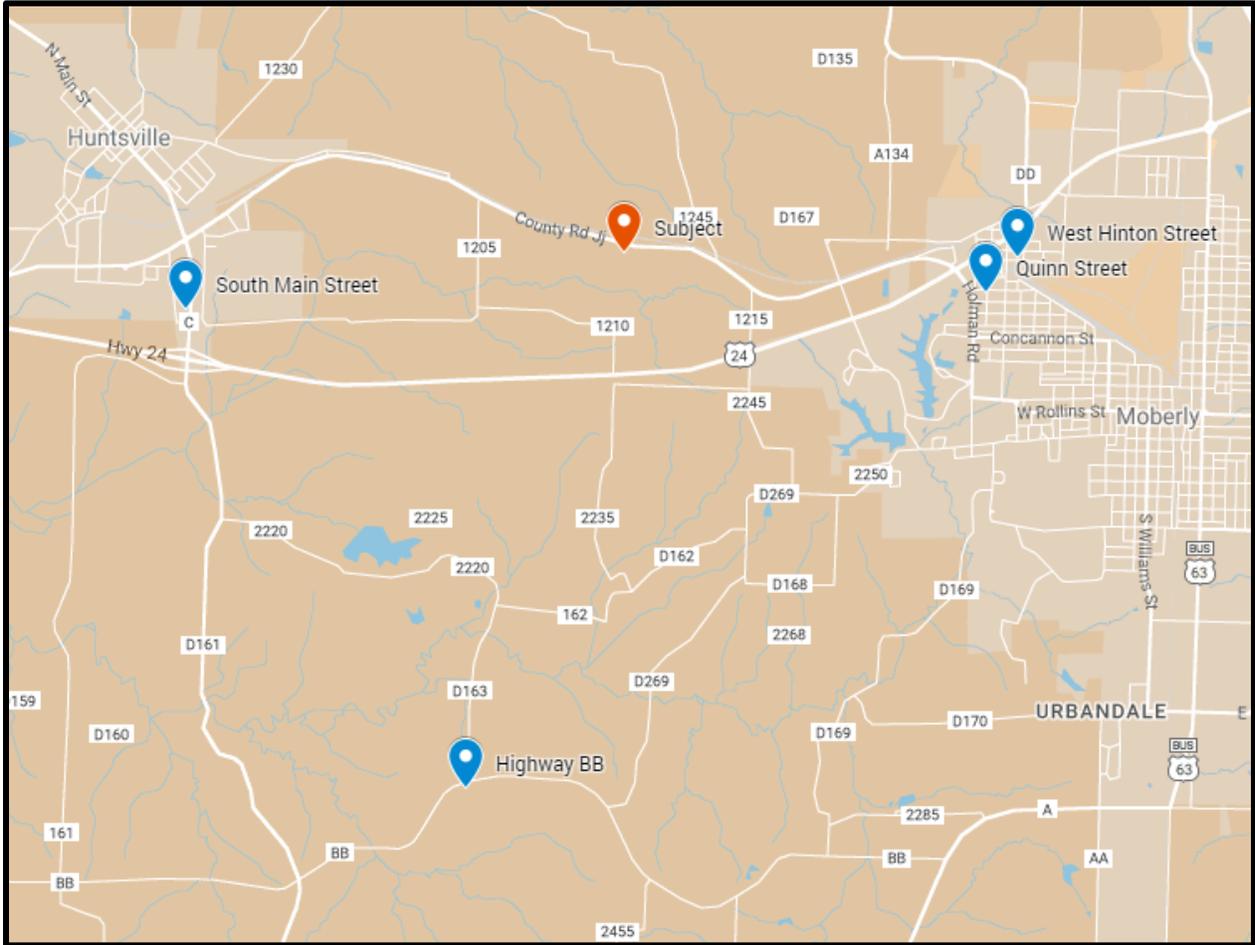
### PROPERTY DESCRIPTION

<b>Property Type:</b> Single Family	<b>Land Area SF:</b> 6,500
<b>Gross Bldg Area:</b> 1,296	
<b>Year Built:</b> 1925	
<b>Condition:</b> Poor	<b>Parking Surface:</b> Gravel
<b>Quality:</b> Below Average	<b>Parking Spaces:</b> Driveway

### COMMENTS

The residence included a partial basement, and was not habitable with significant deferred maintenance including damaged and missing drywall and flooring throughout in addition to a substantial amount of debris throughout parts of the house. The property was listed for \$10,000 and went under contract after 11 days on the market, and as of the date observation has not been razed or rehabilitated.

# LAND SALES MAP



**LAND SALE**

**PROPERTY IDENTIFICATION**

**Address:** Quinn Street  
**City/State:** Moberly, MO  
**County:** Randolph

**SALE INFORMATION**

**Date of Sale:** 07/21/2022  
**Grantor:** Carl R. & Sharon K. Bouchard  
**Grantee:** Knox & Haynes Properties, LLC  
**Book/Page:** 937/1445  
**Verified By:** Agent



**Sale Price:** \$10,500  
**Price per Acre:** \$35,000

**PROPERTY DESCRIPTION**

**Square Feet:** 13,000  
**Acres:** 0.30  
**Shape/Utility:** Rectangular  
**Topography:** Near Level to Gently Sloping  
**Prim. Frontage:** 100'  
**Road Type:** Paved  
**Traffic Count:** Low  
**Utilities:** E,G,S,W  
**Zoning:** R-2

**COMMENTS**

Residential tract in northwest Moberly that was originally listed for \$13,250 and went under contract after 140 days on the market. The property was subsequently developed with two single-family homes.

## LAND SALE

### PROPERTY IDENTIFICATION

**Address:** South Main Street  
**City/State:** Huntsville, MO  
**County:** Randolph

### SALE INFORMATION

**Date of Sale:** 01/26/2021  
**Grantor:** Neil L. & Rhonda G. Hall  
**Grantee:** Tyle N. Hunt  
**Book/Page:** 926/1138  
**Verified By:** Agent



**Sale Price:** \$10,000  
**Price per Acre:** \$17,544

### PROPERTY DESCRIPTION

**Square Feet:** 24,829  
**Acres:** 0.57  
**Shape/Utility:** Rectangular  
**Topography:** Gently Sloping  
**Prim. Frontage:** 135'  
**Road Type:** Paved  
**Traffic Count:** 1,400 cars per day  
**Utilities:** E,G,S,W  
**Zoning:** R-2

### COMMENTS

Property is located in the southern portion of Huntsville between Route JJ and Highway 24 along the South Main Street (Route C) corridor. Surrounding development primarily consists of older single-family residences; however, there is a former convenience store to the south near the Highway 24 interchange.

**LAND SALE****PROPERTY IDENTIFICATION**

**Address:** West Hinton Avenue  
**City/State:** Moberly, MO  
**County:** Randolph

**SALE INFORMATION**

**Date of Sale:** 06/03/2022  
**Grantor:** Kasy Eichelberger  
**Grantee:** Jennifer M. & Joseph P. Sisler  
**Book/Page:** 936/1930  
**Verified By:** Agent



**Sale Price:** \$6,000  
**Price per Acre:** \$12,500

**PROPERTY DESCRIPTION**

**Square Feet:** 21,000  
**Acres:** 0.48  
**Shape/Utility:** Irregular  
**Topography:** Near Level to Gently Sloping  
**Prim. Frontage:** 100'  
**Road Type:** Paved  
**Traffic Count:** Low  
**Utilities:** E,G,S,W  
**Zoning:** R-2

**COMMENTS**

Residential tract in northwest Moberly that included two and a half city lots along the south side of West Hinton Avenue and two city lots along the north side of Collins Avenue. The two sets of lots were separated by an unimproved public alley. The property was originally listed for \$6,500 and went under contract after 203 days on the market, and remains vacant as of the date of observation.

## LAND SALE

### PROPERTY IDENTIFICATION

**Address:** Highway BB  
**City/State:** Huntsville, MO 65259  
**County:** Randolph



### SALE INFORMATION

**Date of Sale:** 06/30/2021  
**Grantor:** Michael E. Hall  
**Grantee:** Duane S. Buckler  
**Book/Page:** 929/2219  
**Verified By:** Agent

**Sale Price:** \$17,900  
**Price per Acre:** \$8,950

### PROPERTY DESCRIPTION

**Square Feet:** 87,120  
**Acres:** 2  
**Shape/Utility:** Irregular  
**Topography:** Near Level to Gently Sloping  
**Prim. Frontage:** 590'  
**Road Type:** Paved  
**Traffic Count:** 800  
**Utilities:** E  
**Zoning:** None

### COMMENTS

Open 2 acre lot along Highway BB. It was originally listed for \$17,900 and went under contract after 44 days on the market, and remains vacant as of the date of observation.

# City of Moberly City Council Agenda Summary

Agenda Number: WS #12.  
 Department: Public Utilities  
 Date: November 6, 2023

**Agenda Item:** A Discussion Regarding A Resolution Approving A Proposal From Vandevanter For A Darwood Lift Station Pump Replacement And Authorizing The City Manager To Execute The Agreement On Behalf Of The City.

**Summary:** This replacement provides an opportunity for the utility to replace a pump that is now, after 8 years of service life, requiring its second rebuild. The utility desires to replace the pump with what has been proven in use as a reliable and lower maintenance pump system. The utility acquired proposals for both pump replacement and pump repair with least cost repair being 73% of replacement with new. Taking advantage of this opportunity allows the utility to gradually increase the overall reliability of aging pumping systems, in an effort to increase the reliability of the wastewater system as a whole. Additionally, the new pump is provided with an addition to the control system to allow for significantly improved monitoring of pump condition and performance and alerts operation staff prior to pump failure.

**Recommended**

**Action:** Direct staff to provide a Resolution at the next scheduled council meeting.

**Fund Name:** Lift Station Maintenance

**Account Number:** 301.114.5304

**Available Budget \$:** 62,800

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>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<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>Lucas</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>Jeffrey</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			
<input type="checkbox"/> Consultant Report	<input checked="" type="checkbox"/> Other <u>Proposals</u>		Passed	Failed

# SERVICE ESTIMATE

WS #12.

<b>Customer:</b> City of Moberly, MO <b>Contact :</b> Emily Lute <b>Date:</b> 07/24/2023 <b>Phone:</b> 660-269-8705 <b>Fax:</b> 660-263-4992 <b>Project:</b> Fairbanks Morse Repair Quote  <b>Quote #: 7054784      Opp #: OP-577369</b>	<b>Vandevanter - Municipal</b> <b>1550 Larkin Williams Road</b>  <b>Fenton, MO 63026</b> <b>Phone: 636-343-8880</b> <b>Fax: 636-343-1720</b>
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Dear Emily,

We are pleased to offer the following estimate for your review.

Line No	Quantity	Description of Unit	Net Each	Net Ext.
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1

**FAIRBANKS MORSE**

Serial Number - U020D2214C1X 1132A

- **Repair estimate for the Fairbanks Morse SE-M2307, serial #U020D2214C1X 1132A, from the Darwood Lift Station, per the attached repair report.**

1.00 ■ REPAIR PARTS

<b>Materials</b>	<b>\$61,831.55</b>
<b>Labor</b>	<b>\$2,880.00</b>
<b>Total</b>	<b>\$64,711.55</b>

**Disassembly, Cleaning, Inspection and Estimating Charge**

**\$1,120.00**

Amount due if this unit is not repaired. An invoice for this charge will automatically generate within 90 days of this estimate. This charge is for DCI (Disassembly, Clean and Inspect). All units left at our facility for more than 6 months will be scrapped unless written notification is received.

Delivery: ..... 10 - 12 week(s) after receipt of P.O.  
 FOB Point: ..... Shipping Point  
 Terms of Payment: ..... Upon Receipt  
 Freight: ..... Best Way - PPD/ADD  
 Quote Validity: ..... 15 Days

Thank you for the opportunity to provide you with this estimate. Please let us know how you would like to proceed.

**Quoted By:**  
**Eric Steffen**  
**esteffen@cogentcompanies.com**

**Salesrep:**  
**Ben Azerolo**  
**bazerolo@vandevanter.com**  
**314-347-7433**

**Replacement Pump:**

ONE (1) Flygt NP 3153 submersible pump with a hard iron 463 impeller. This pump features a 20 HP, 3 phase, 460-volt motor. Also included is 50 feet of power cable, and a floatation leakage sensor (FLS). Volute to have 4" Discharge.

ONE (1) Minicas Thermal and Seal Fail Sensor with socket

ONE (1) LOT of Labor to adapt the existing slide rail (may need to use part of old volute) to the new pump so that it will go down the existing guide rails.

NOTE: Installation is not include as it will need to be done on time and material since we will need to wire in the Minicas to existing panel.

143

Replacement Pump Price.....\$28,487.00

Price is FOB shipping point and does not include any freight charges. Price does not include any applicable duties or sales tax, use tax, excise tax, value-added or other similar taxes that may apply to this equipment and/or project. Unless specifically stated, price does not include manual or automatic controls, starters, protective or signal devices, wiring, anchor bolts, gauges, vibration isolation devices, installation, startup or testing.

If the price is included in a proposal, the price is firm for receipt of an order within 15 days of the date shown on the proposal. Any additional terms and conditions included in the proposal are specifically included in these terms and conditions.

Unless otherwise expressly agreed to in writing by Seller, all shipments are FOB Seller shipping point at which point title also transfers.

Payment is due upon receipt of the invoice. An interest charge of 1-1/2% per month will be added to past due balances. Retainage of any invoiced amount is unacceptable unless specifically agreed to by Company at the time of order, and shall in no case exceed a period of 120 days. If payments are not timely received by Company, and this account is turned over to an attorney for collections, Customer agrees to pay all reasonable costs and attorney fees incurred in collection of the past due amounts.

Payment of 'commercial transaction' invoices by credit card will be charged a fee based upon Cogent's average discount rate for credit card transactions for the prior calendar year. This fee will change annually and is currently 2.55%.

All equipment either rented from or through Company is subject to all of the terms and conditions listed on the back of the rental contract. Pricing does not include any overtime running of power equipment.

In no event shall Company's obligations and liabilities under this Agreement include any direct, indirect, punitive, special, incidental or consequential damages or losses that Customer may suffer or incur in connection with this sale, service or rental, including, but not limited to, loss of revenue or profits, damages or losses as a result of Customer's inability to operate, perform its obligations to third persons or injuries to goodwill; nor shall Company's liability extend to damages or losses Customer may suffer or incur as a result of such claims, suits or other proceedings made or instituted against Customer by third parties. Customer remises, releases and discharges Company from any and all liability or damages which might be caused by failure to deliver any equipment within the agreed time by Company.

Customer shall be responsible for determining the good operating condition of all materials and equipment prior to accepting the materials and equipment. NO WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY AS TO MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE IS MADE UNLESS THE SAME IS SPECIFICALLY SET FORTH IN WRITING AND ACCEPTED IN WRITING BY COMPANY, BUT IN SUCH CASE THE WARRANTY OR GUARANTEE IS LIMITED AS ABOVE PROVIDED. Notwithstanding the foregoing, Company will pass through to the Customer any warranty provided by the manufacturer of any equipment supplied by Company.

Customer covenants and agrees to defend, indemnify and hold Company harmless from any claims, damages or liability arising out of the use, maintenance or delivery of the equipment or materials purchased or rented hereunder. Customer shall further defend, indemnify and hold Company harmless from any and all damages to third persons or to property caused by Customer's use or possession of the equipment or materials, to the fullest extent allowable by law.

In connection with a proposal, if Customer has any further questions or comments regarding the proposal, please feel free to contact Company. If the proposal meets with Customer's approval, please sign, date and mail or fax a copy of the proposal back to Company's office, and the identified equipment will be ordered and/or scheduled for delivery.

This agreement shall be governed by the laws of the state where the Company's branch office is located from which the equipment is rented or purchased. Customer further agrees that venue and jurisdiction shall be appropriate in the county in which Company's branch office is located from which the equipment was rented or purchased. Any provisions hereof which may prove unenforceable under any law shall not affect the validity of any other provision hereof.

Revised March 2022



**Vandevanter Engineering Service Center**

Opportunity Number	OP-577369	Date	7/24/2023
PQ/Order Number	7054784	Salesman	Ben A
Customer	Moberly, MO	Customer Stock #	
Contact Name, First	Emily	Service Type	Service
Contact Name, Last	Lute	Brand	Vandevanter Engineering
Contact Phone		Market	Municipal
Contact Cell		Fluid Being Pumped	
Contact Email		Equipment Location/Station	Darwood LS

Manufacturer	Fairbanks Morse
Model	SE-M2307
Serial #	U020D2214C1X 1132A
Item Type / Description	
Additional Items	None
Level of Repair	L2 - Full DCI with Clearances Noted, Sandblasting, Estimate with Pictures, and Repair Report

DCI Technician	Tim Valentine	DCI Date	8/7/2023
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**Pump As Found/Received**

Notes:



Initial Inspection					
HP	20	FLA	27.6	Voltage	460V
Phase	Three	RPM	1735	IMP Code	
Power Cable Length	48'	Power Cable Condition	Cut	Cable Disposition	Replace
Sensor Cable Length	48'	Sensor Cable Condition	Cut	Paint Color & Type	Black
FLS Sensor Model	Probe	FLS OHM Standard Open		FLS OHM Actual Open	330
		FLS OHM Standard Closed		FLS OHM Actual Closed	
Thermal Sensor		Thermal OHM Standard	Insert Value	Thermal OHM Reading	1.3
Bearing Sensor Model		Bearing OHM Standard		Bearing OHM Actual	
Control Box		Control Box Condition			
Condition Of Oil	Product in Oil	Mechanical Seal Pressure Test	Fail		

Electrical Inspection									
OEM Ohm Standard	R/B		R/W		B/W		Junction Chamber Cond	Wet	
Cable OHM Reading	R/B	0.676	R/W	0.675	B/W	0.676	Junction Therm Reading		
Junction OHM Reading	R/B		R/W		B/W		Junction FLS Reading		
Cable Meg Reading	R	INF	B	INF	W	Inf	<b>Electrical Notes:</b>		
Junction Meg Reading	R		B		W		Failed the leakage sensor electrical test		
Does the Pump Pass Electrical Checks?			Fail						

Wet End	
Volute Condition	Good - Reuse
Discharge Flange	Good - Reuse
Discharge Size	4"
Wear Ring	Worn - Replace
<b>Notes:</b> The volute is in good working condition and can continue use. The wear ring will need to be replaced.	
	
Wet End Disposition	Reuse

**Impeller**

Condition | Worn

Impeller Clearance | [REDACTED]

Balance Required? | No

**Notes:**  
 The impeller is worn in multiple areas and is causing the impeller to run out of balance. There are indications on the rotor shaft and bearing housing of the impeller running out of balance.



Impeller Disposition | Replace

**Mechanical Seals**

Upper Seal Condition | Worn

Lower Seal Condition | Severely Worn

Seal Material	Upper	Tungsten Carbide
	Lower	Tungsten Carbide

Seal Fit on Shaft	Upper	
	Lower	

**Notes:**  
 The out of balance impeller caused the lower seal to fail and allowed media to enter the oil housing.



Upper Seal Disposition | Replace

Lower Seal Disposition | Replace

### Bearing Housing

Housing Condition Minimal Wear

Bearing Grease Cond.

Bearing Condition	Upper	Worn
	Lower	Worn

Bearing Housing Fit	Upper	
	Lower	

**Notes:**  
Both bearing housings are in good working condition and can continue use.



Housing Disposition Reuse

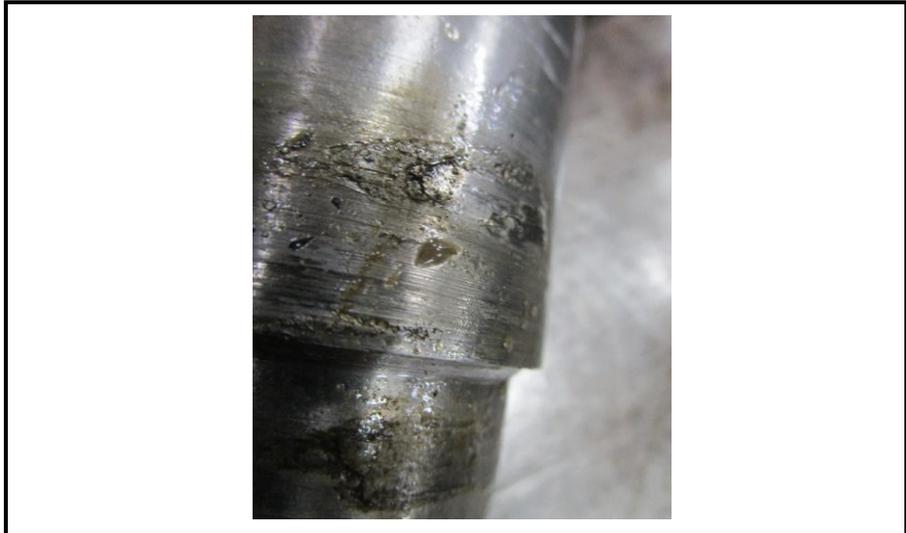
### Rotor

Rotor Condition Worn

Bearing Condition	Upper	Worn
	Lower	Worn

Rotor Shaft Fit	Upper	
	Lower	

**Notes:**  
An out of balanced impeller caused the rotor shaft to rub on the lower seal housing. The pump will need a new rotor.



Rotor Disposition Replace

Bearing Disposition Replace

### Stator

Wash and Bake?  Yes

Winding Analyzer  Pass

**Notes:**  
The stator was cleaned and is good to continue use.



POST BAKE ELECTRICAL RESULTS:						
OHM Reading	R/B	0.622	R/W	0.622	B/W	0.62
Meg Reading	R	INF	B	INF	W	INF
Thermal	0.5					

Stator Disposition  Reuse

### Additional Notes & Findings

**Item 1:**

The power cable had multiple cuts and will need to be replaced.



**Item 2:**

A picture of the contaminated oil coming from the oil housing.



WS #12.

**Conclusions**

<b>O-Rings Condition</b>	Squared	<b>Bin Location</b>	VA2A
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**Primary Cause of Failure**

A worn impeller caused the impeller to run out of balance. This caused damage to the lower seal, lower seal housing and the rotor shaft. The power cable also had multiple cuts in it and will need to be replaced. The pump will need a new power/sensor cable unit, both seals, both bearings, rotor, impeller, both wear rings, seal housing, o-rings and a few small parts for repair.

**Additional Notes & Suggestions**

**Parts Required**

FLYGT WHITE MINERAL OIL	BASIC REPAIR KIT	LEAD MOISTURE DETECTOR
SANDBLASTING	IMPELLER	IMPELLER STUD ALL-THREAD
IMPELLER WASHER	CASE RING	IMPELLER WEAR RING
IMPELLER KEY	VOLUTE GASKET	IMPELLER SHIM
COVER CABLE ASSEMBLY	SHAFT	IMPELLER SHIM
	HEX NUT IMPELLER	ROTOR/STATOR SET
		GLAND

<b>Inspection Reviewed By</b>	Blake Wild	<b>Date</b>	8/28/2023
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## PROPOSAL # 23-E7831

**THIS PROPOSAL NUMBER SHOULD BE INCLUDED  
ON ALL CORRESPONDENCE OR PURCHASE  
ORDERS PERTAINING TO THIS PROJECT**

**DATE:** October 10, 2023

**TERMS:** 100% Net 30 Days (Subject to Credit Approval)

**FREIGHT:** F.O.B. Factory, Freight Allowed to Job Site

**TO** Moberly, MO WWTP

**JOB** Darwood Replacement Pump

Hydro-Kinetics is pleased to offer the following proposal for a replacement pump for Serial #10270962.

### Item Description

- Qty One (1) - Fairbanks Nijhuis Pump Model 4" D5433MBK to produce 450 GPM @ 79' TDH. Include:
  - o 10.25" Dynamically Balanced Impeller – T4C1AA
  - o 20 HP, 1735 RPM 460 VAC, 3 Phase, 60 Hz, 210T Frame Short Time in Air Motor
  - o 300-350 BHN SST Impeller Wear Ring
  - o 300-350 BHN SST Casing Wear Ring
  - o Pump and Motor Weight – 540 lbs

**Price - \$ 20,770.00 + Freight**

### NOTES:

- 1) All quoted prices are firm for 30 days after the date noted on this proposal. A valid order must be accepted in writing by Hydro-Kinetics and released to production within this timeframe to hold pricing firm through invoice.
- 2) Price does not include modification to existing equipment or facilities, unless otherwise noted in the scope of work.
- 3) Freight terms are F.O.B Factory, Freight Allowed to Job Site. All unloading and proper storage is the responsibility of others.
- 4) Estimated equipment schedule:
  - Equipment – 16-20 weeks after submittal approval
  - Start-up - Three (3) weeks' notice required for scheduling of start-up services, start-up cannot be completed until all electrical and mechanical connections are completed. No start-up services will be provided until 100% of payment has been received.
- 5) All setting of the above quoted equipment, external piping or conduit, valves, wire, power, electrical interconnections, concrete support pads, junction boxes, disconnects are all by others.

- 6) MO State and/or local taxes will be charged unless we receive a valid resale/exemption certificate.
- 7) Additional start-up services, other than those listed above, are available for \$1000.00/DAY Plus Travel and Living Expenses
- 8) Price does not include:
- Electrical and mechanical installation and installation materials of any type.
  - Mounting brackets or other installation hardware not listed above.
  - Field mounted plumbing materials not listed above.
  - Grip holders, support grips or threaded connectors of any type for electrical cables
  - Pipe, fitting, valves, nuts, bolts, supports, or gaskets of any type
  - Junction box or any associated gas tight seals or sealing material.
  - Anchor bolts of any type
  - Locks of any type.
  - Primary electrical service of any type
  - Any Federal, State, or Local taxes of any type, (payment of any associated taxes is the responsibility of the purchaser).
- 9) This quotation includes only equipment specifically mentioned herein and does not include, or infer inclusion of, any additional equipment, piping, valves, wiring, services, etc., regardless of its relation to the quoted equipment.
- 10) Hydro-Kinetics Corporation shall not, in any event, be liable for indirect, special, consequential or liquidated damages or penalties, whether based upon contract, warranty, tort or negligence, and accepts no responsibility for the warranty and/or fitness of any existing equipment.
- 11) Terms: All orders are subject to acceptance by HYDRO-KINETICS CORPORATION, and 100% NET 30 DAYS terms are granted to **existing customers**; all unpaid balances are subject to 1.5% interest charge. **First time customers are required to pay for their equipment before that equipment is ordered.** HYDRO-KINETICS does not allow retainage. Any retainage will be charged the stated 1.5% interest. These terms are independent of, and are not contingent upon other terms and conditions, the time or manner in which purchaser may receive payment from others or when the equipment is installed after receipt. HYDRO-KINETICS CORP reserves the right to issue individual invoices for the supplied equipment.

I appreciate the opportunity to provide a quote for the above equipment. If you have any questions or need any additional information please feel free to contact my office at (314)-647-6104 or by FAX (314)-645-1861.

Very truly yours,



HYDRO-KINETICS CORPORATION



5741 MANCHESTER AVE.  
ST. LOUIS, MISSOURI 63110  
PHONE (314)-647-6104; FAX (314)-645-1861

WS #12.

By: Jeff Clarke

.....  
To purchase this equipment, please sign the space below and return the original to Hydro-Kinetics Corporation at 5741 Manchester Ave. St. Louis, MO 63110.  
.....

**QUOTE ACCEPTANCE**

Quote Options Selected (Please list, if applicable): \_\_\_\_\_

Quote 23-E7831 ACCEPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2023,

By: \_\_\_\_\_  
(NAME OF PURCHASER)

By: \_\_\_\_\_ : \_\_\_\_\_  
(AUTHORIZED SIGNATURE) (TITLE)

P.O. # \_\_\_\_\_

**SHIPPING**

Street Address: \_\_\_\_\_ ATTN: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Liftgate Truck Required? (check) \_\_\_\_\_ Shipping (check): Ground \_\_\_\_\_ Rush \_\_\_\_\_



Sedalia Division

Remit to:  
Independent Electric  
4425 Oliver Street  
Kansas City, KS 66106

Ship to:  
Independent Electric  
225 South Kentucky  
Sedalia, MO 65301

Office/Sales:  
Ph: 660.826.7410  
Fx: 660.826.6763  
www.iemco.com

Quote WS #12.

Quote Number  
**SE-RRE1775**

Attn

cc

EMILY LUTE

Phone:

(660) 269-7637 x

Fax:

(660) 269-8171 x

**Customer Information**

MOBERLY, CITY OF  
101 W REED STREET  
MOBERLY, MO 65270

**Ship To Information**

MOBERLY, CITY OF  
101 W REED STREET  
MOBERLY, MO 65270

Quote Date: 9/18/2023  
Customer ID: 122176  
Quoted By:  
RFQ #:  
Salesperson: SE 70  
Terms: Net 30

**Quote Information**

Ship Via: I.E. DELIVERY

Reason For Work: MINOR REPAIR OF FAIRBANKS MORRIS PUMP

Cause of Failure:

Required Work:

- Pick Up Unit from Facility
- Disassemble Unit
- Write Up / Documentation
- Steam Clean / Batch Clean Parts
- Hand Clean / Detail Parts
- Sand Blast Parts
- Inspect / Identify Unit Parts
- Inspect / Identify Unit Parts
- Megger / OHM Testing
- Surge Testing
- Clean Parts
- Hi Pot Testing
- Growl Test Rotor
- Inspect Power / Sensor Cord
- Inspect / Check Machine Fits
- Weld / Machine Shaft
- DE Bore & Bush Bearing Housing
- Machine Mechanical Seal Fit
- Furnish and Install New Bearing/s
- Furnish and Install New Mechanical Seal/s
- Furnish and Install New O-Ring Kit
- Furnish and Install New Gaskets
- Furnish and Install New Impeller/s
- Furnish and Install Wear Ring/s
- Reassemble
- Pressure Test Unit
- Paint Unit
- Final Test Run (No Load)

Comments: PARTS ARE 6-7 WEEK LEAD TIME. PLEASE LET US KNOW IF YOU WANT US TO PRICE YOU A NEW PUMP.

	Pick Up On	Lead Time	Total Price
Work Based on Straight Time:		7-8 WEEKS	\$24,228.83

SIGNATURE: \_\_\_\_\_

DATE: \_\_\_\_\_

PRINT NAME: \_\_\_\_\_

PO# (If not yet issued) \_\_\_\_\_



**Sedalia Division**

Remit to:  
Independent Electric  
4425 Oliver Street  
Kansas City, KS 66106

Ship to:  
Independent Electric  
225 South Kentucky  
Sedalia, MO 65301

Office/Sales:  
Ph: 660.826.7410  
Fx: 660.826.6763  
www.iemco.com

**Quote** WS #12.

**Quote Number**

**SE-RRE1775**

**Attn**

EMILY LUTE

**cc**

**Phone:**

(660) 269-7637 x

**Fax:**

(660) 269-8171 x

**Customer Information**

**MOBERLY, CITY OF  
101 W REED STREET  
MOBERLY, MO 65270**

**Ship To Information**

**MOBERLY, CITY OF  
101 W REED STREET  
MOBERLY, MO 65270**

<b>Quote Date:</b>	9/18/2023
<b>Customer ID:</b>	122176
<b>Quoted By:</b>	
<b>RFQ #:</b>	
<b>Salesperson:</b>	SE 70
<b>Terms:</b>	Net 30

**Quotes Do Not Include Sales Tax or Freight, Unless Otherwise Noted.  
We Are not Responsible For Items Left Over 90 Days.  
Quote is valid for 30 days.**

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_  
**PRINT NAME:** \_\_\_\_\_ **PO# (If not yet issued)** \_\_\_\_\_

# City of Moberly City Council Agenda Summary

Agenda Number: WS #13.  
 Department: Public Utilities  
 Date: November 6, 2023

**Agenda Item:** A Discussion Regarding Accepting The Bid And Authorizing The City Manager To Execute The Agreement For The Downtown CSO EDA Project For Public Utilities.

**Summary:** The Public Utilities Department has received bids for the Downtown CSO EDA Project that was approved as one of six projects included within an EDA grant. The quote selected is the \$1,627,100.00 from Schneiders Excavating Co. The advertisement for bids resulted in bids received ranging from this lowest bid of \$1,627,100.00 to the high bid of \$2,199,250.00. Project funding is from an EDA Grant with a corresponding Moberly match. EDA requires project completion no later than September 28, 2024.

**Recommended**

**Action:** Direct staff to offer a resolution at the next council meeting

**Fund Name:** Capital Improvement Plan

**Account Number:** 301.112.5412

**Available Budget \$:** To be secured from capital reserve

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>Brubaker</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>Lucas</b>	___	___
<input type="checkbox"/> P/C Minutes	<input checked="" type="checkbox"/> Contract	M___ S___ <b>Kimmons</b>	___	___
<input type="checkbox"/> Application	<input type="checkbox"/> Budget Amendment	M___ S___ <b>Jeffrey</b>	___	___
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice	M___ S___ <b>Kyser</b>	___	___
<input type="checkbox"/> Consultant Report	<input checked="" type="checkbox"/> Other <u>Exhibits</u>		Passed	Failed

DOCUMENT 005200 - AGREEMENT

THIS AGREEMENT is by and between the City of Moberly, Missouri (hereinafter called OWNER) and Schnieders Excavating Co. (hereinafter called CONTRACTOR).

OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 - WORK

1.01 CONTRACTOR shall complete all work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Downtown CSO Storage Facility

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows: Downtown CSO Storage Facility

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by Jacobs Engineering Group Inc. (Jacobs), who is hereinafter called ENGINEER and who is to act as OWNER's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work will be substantially completed within 210 days after the date when the Contract Times commence to run as provided in paragraph 4.01 of the General Conditions and completed and ready for final payment in accordance with paragraph 14.07 of the General Conditions within 240 days after the date when the Contract Times commence to run.

4.03 Liquidated Damages

A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 11 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by OWNER if the Work is not completed on time. Accordingly, instead of requiring any

such proof, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER \$250.00 for each of the first 30 days that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment. Thereafter, the CONTRACTOR shall pay OWNER \$500.00 for each of the next 15 days that expires until the Work is completed and ready for final payment. If the Work is not completed and ready for final payment after 45 days from the time specified in paragraph 4.02, the CONTRACTOR shall pay OWNER \$750.00 for each day that expires until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE.

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the unit prices in the Bid Form:

<b>DOWNTOWN CSO STORAGE FACILITY</b>	
<b>CITY OF MOBERLY, MISSOURI</b>	
No.	Item
1	DOWNTOWN CSO STORAGE FACILITY
<b>TOTAL LUMP SUM BID PRICE (Use Figures)</b>	
\$1,627,100.00	

ARTICLE 6 - PAYMENT PROCEDURES.

6.01 Submittal and Processing of Payments

- A. CONTRACTOR shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

6.02 Progress Payments; Retainage

- A. OWNER shall make progress payments in accordance with Section 34.057, RSMo, on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment during performance of the Work as provided in paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in paragraph 2.05 of the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements:

1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as ENGINEER shall determine or OWNER may withhold, in accordance with paragraph 15.01 of the General Conditions.
  - a. 90% of Work completed (with the balance being retainage). If Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work have been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and
  - b. 90% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 100% of the Work completed, less such amounts as ENGINEER shall determine in accordance with paragraph 15.01.C.5 of the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with paragraph 15.06 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said paragraph 15.06.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 15 of the General Conditions shall bear interest at the rate specified in Section 34.057, RSMo.

ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS

8.01 In order to induce OWNER to enter into this Agreement, CONTRACTOR makes the following representations:

- A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all such additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.
- E. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- F. CONTRACTOR is aware of the general nature of work to be performed by OWNER and others at the Site that relates to the Work as indicated in the Contract Documents.
- G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

- A. The Contract Documents consist of the following:
  - 1. This Agreement
  - 2. Performance Bond
  - 3. Payment Bond
  - 4. General Conditions
  - 5. Supplementary Conditions
  - 6. Specifications as listed in the table of contents of the Project Manual
  - 7. Drawings with each sheet bearing the following general title: North Morley Water Main, City of Moberly, Missouri
  - 8. Addenda (numbers \_\_\_ to \_\_\_, inclusive)
  - 9. Exhibits to this Agreement (enumerated as follows):
    - a. Notice to Proceed
    - b. CONTRACTOR's Bid
    - c. Documentation submitted by CONTRACTOR prior to Notice of Award
  - 10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
    - a. Written Amendments
    - b. Work Change Directives
    - c. Change Orders
- B. The documents listed in paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in paragraph 11.01 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

10.03 Successors and Assign

- A. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and CONTRACTOR, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

ARTICLE 11 - NON-DISCRIMINATION IN EMPLOYMENT

11.01 CONTRACTOR will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin. The CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, creed, color or national origin. Such action shall include, but not be limited to, the following: 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.

11.02 CONTRACTOR will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

- A. CONTRACTOR will, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.
- B. CONTRACTOR will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the CONTRACTOR's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- C. CONTRACTOR will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- D. CONTRACTOR will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- E. In the event of the CONTRACTOR's non-compliance with the non-discrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part and the CONTRACTOR may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or

by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- F. CONTRACTOR will include the provisions of Article 11 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The CONTRACTOR will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that in the event the CONTRACTOR becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

Hereinafter called the project, for the sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_), and all extra work in connection therewith, under the terms as stated in the General and Special Conditions of the Agreement, and at his (its or their) own proper cost and expense to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the said project in accordance with the conditions and prices stated in the Proposal, the General Conditions, Supplemental General Conditions, and Special Conditions of the contract, the plans, which include all maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, the specifications and contract documents therefore as prepared by \_\_\_\_\_ herein entitled the Architect/Engineer, all of which are made a part hereof and collectively evidence and constitute the Agreement.

IN WITNESS WHEREOF, the parties to these presented have executed this Agreement in six (6) counterparts, each of which shall be deemed an original, in the year and day mentioned. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or on their behalf.

This Agreement will be effective on \_\_\_\_\_, 20\_\_ (which is the Effective Date of the Agreement).

CITY OF MOBERLY

CONTRACTOR:

\_\_\_\_\_  
Mayor

\_\_\_\_\_

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

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

APPROVED AS TO FORM:

[CORPORATE SEAL]

\_\_\_\_\_  
City Counselor

Attest \_\_\_\_\_

Address for giving notices:

Address for giving notices:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If OWNER is a corporation, attach evidence of authority to sign. If OWNER is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.

License No. \_\_\_\_\_

Agent for service of process: \_\_\_\_\_

Designated Representative:

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

(If CONTRACTOR is a corporation or a partnership, attach evidence of authority to sign).

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

Designated Representative:

Address: \_\_\_\_\_

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

Phone: \_\_\_\_\_

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

Facsimile: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Facsimile: \_\_\_\_\_

CITY OF MOBERLY  
"BID OPENING"  
Sign-In Sheet

"Downtown CSO  
Storage facility"

Date: 10/09/2023 2pm

Name

Company

Shannon Hance

City of Moberly

Chris Schrieders

Schrieders Exc.

Bryant Vessell

Emery Sapp & Sons, Inc.

Tom Webb

WBI HOLMAN

Tobin Lichti

Jacobs

Tony Hoile

Gene Hoile Exc. Inc.

Steve Wilson

city of moberly

Dana Wimer

" " "

CITY OF MOBERLY

"Downtown, CSO Storage Facility"

"BID OPENING"

Date: 10/09/2023, 2pm

ESS - Emery Sapp & Sons \$ 1,776,227.<sup>00</sup>

\_\_\_\_\_ \$ \_\_\_\_\_

Schneiders Excavating Co. \$ 1,627,100.<sup>00</sup>

\_\_\_\_\_ \$ \_\_\_\_\_

Gene Haule Excavating, Inc \$ 2,199,250.<sup>00</sup>

\_\_\_\_\_ \$ \_\_\_\_\_

JT Holman Construction  
LLC \$ 1,895,000.<sup>00</sup>

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

\_\_\_\_\_ \$ \_\_\_\_\_

**FW: Downtown Storage****Haag, William** <William.Haag@jacobs.com>

Tue 10/17/2023 2:08 PM

To: Dana Ulmer &lt;dulmer@cityofmoberly.com&gt;

Cc: Lichti, Tobin &lt;Tobin.Lichti@jacobs.com&gt;

Dana,

FYI.

Bill

---

**From:** Cindy Hultz <chultz@marktwaincog.com>**Sent:** Tuesday, October 17, 2023 2:01 PM**To:** Haag, William <William.Haag@jacobs.com>**Cc:** Lichti, Tobin <Tobin.Lichti@jacobs.com>**Subject:** [EXTERNAL] Downtown Storage

We have received approval from CDBG to proceed with Schneider Excavating for the Downtown Storage project.

Thanks,

Cindy Hultz

Executive Director

Mark Twain Regional Council of Governments

42494 Delaware Lane

Perry, MO 63462

o. 573-565-2203

c. 660-651-9738

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

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# City of Moberly City Council Agenda Summary

Agenda Number: WS #14.  
 Department: Public Utilities  
 Date: November 6, 2023

**Agenda Item:** A Discussion Regarding A Proposal From Jacobs Engineering For Engineering Services For The Northwest Regional Lift Station SRF Project Engineering.

**Summary:** As part of the city’s wastewater CIP program, Jacobs Engineering has proposed to provide the associated engineering services necessary to complete the project and team with Moberly on this State Revolving Fund Project. This project is one of the named projects within the 2018 list of projects that are high priority and necessary for continued functioning of the sewer collection system. This is authorization to proceed and engineering activities are expected to begin in 2024, allowing reimbursements from current grant projects to cover this engineering expense. The new lift station will replace 3 existing legacy stations and is partially funded by a Regional Incentive Grant.

**Recommended Action:** Direct staff to develop a resolution for approval at the next regular Council meeting

**Fund Name:** Capital Improvement Plan (SRF)

**Account Number:** 301.114.5502

**Available Budget \$:**

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>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution			
<input checked="" type="checkbox"/> Proposal	<input type="checkbox"/> Attorney’s Report	<b>Council Member</b>		
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ <b>Lucas</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>Jeffrey</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice	M__ S__ <b>Kyser</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

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F +1.314.335.5141  
www.jacobs.com

November 2, 2023

Dana Ulmer  
Public Utilities Director  
City of Moberly  
101 West Reed Street  
Moberly, MO 65270

**Subject: Northwest Regional Lift Station**

Dear Dana:

Jacobs Engineering Group, Inc. (Jacobs) is pleased to present our proposal to provide the City of Moberly (City) with Professional Engineering Services to design the Northwest Regional Lift Station and associated gravity sewer network as described in the Northwest Regional Lift Station Facility Plan dated February 18, 2021. The is intended to divert flows away from the Holman Road and Rothwell Lake sewers, both of which experience capacity issues, and eliminate several of the lift stations that currently serve the area of northwestern Moberly (Huntsville Pump Station, Becflo Pump Station, and Buchanan Pump Station). The diverted flows would also reduce discharges from the Holman Road CSO. The scope of work includes the Existing Conditions Survey, Preliminary Design Phase, Final Design Phase, Bid Phase, and Construction Management Services.

**SCOPE**

**Project Kick Off Meeting**

Jacobs will meet with City to discuss project goals, force main alignment, easements, etc.

**Existing Conditions Survey**

Topographic mapping and data collection for approximately 16,000 feet of force main and sanitary sewer alignment routing to assist in design.

- 1) Jacobs will meet with the City of Moberly to finalize exact routing based on kick-off meeting discussions and perceived ease of easement acquisition.
- 2) Field run topographic survey. Topography includes ground elevations and existing physical improvements within the survey areas. Survey includes location of all building, structures and other physical improvements located within the survey area (30-foot corridor along the

November 2, 2023

Subject: Northwest Regional Lift Station

proposed force main/sewer alignment, 100-foot by 100-foot area around center point of pump station site).

- 3) Indicate the location, size, and species of trees over 6-inches in diameter in wooded areas with perimeter tree drip lines located and shown.
- 4) Contact Missouri-One-Call to provide the locations of existing utilities within the project limits. The locations of utilities within the project limits shall be field surveyed and incorporated into the base drawings for the project. After utilities have been marked, Jacobs will make site visit to verify final alignment for development of 90% design documents.
- 5) Dry utility locations for electric, telephone/cable and gas include surface indications of visible utilities, including manholes, poles, vaults, transformers and pedestals. Subsurface utility markings (established by Missouri One-Call) will be field located and shown on the topographic survey base drawings.
- 6) Wet utilities include water lines, sanitary sewer and storm sewer with inverts of pipe, pipe size with percent of slope for each sewer run shown. Wet utility locations include all surface indication including valves, vaults and fire hydrants.
- 7) Contour intervals will be 1-foot.
- 8) Establish property lines and property ownership. Scope includes the preparation of legal description of up to twenty easements. The City will be responsible for preparing the final easement documents, negotiating, and acquiring easements from the individual property owners.

Conduct a geotechnical investigation of the pump station site and sewer alignment

- 1) 6 borings at 15 feet (force main alignment), 29 borings at 30 feet (gravity sewer alignment, and 1 boring at 40 feet (pump station site).
- 2) If rock is encountered above a depth of 15 feet, the boring will be advanced 5 feet into the rock.
- 3) Sampling will be in general accordance with industry standards in which two samples will be obtained in the upper 5 feet of boring and one sample obtained for each additional five feet of boring.
- 4) Groundwater levels will be observed and recorded while drilling and at the completion of drilling. Borings will be backfilled prior to the drill crew departing the job site; no delayed groundwater readings will be taken.
- 5) The samples obtained from the borings will be tested to determine physical engineering characteristics. Testing will be performed under the direction of a geotechnical engineer and will include visual classification, moisture content, dry density, Atterberg limits, and strength tests as appropriate.
- 6) Results of field and laboratory programs will be evaluated by a professional geotechnical engineer licensed in the State of Missouri.
- 7) Preparation of a Geotechnical Engineering Report by a geotechnical engineer licensed in the State of Missouri. The report will include:

November 2, 2023

Subject: Northwest Regional Lift Station

- a. Boring Logs
- b. Laboratory test results
- c. Groundwater levels
- d. Boring location plan
- e. Subsurface exploration procedures
- f. Pipe bedding design parameters
- g. Buoyancy design parameters
- h. Pipe tunnel design parameters
- i. Foundation recommendations
- j. Lateral earth pressures

### **Preliminary Design Phase (90% Design)**

**Task 1 – Design Kick-Off Meeting (30%).** Jacobs will meet with City staff for a kickoff meeting to review the basis of design and preliminary layout.

**Task 2 - Develop 90% Design Documents.** Based on the Facility Plan and Existing Conditions Survey activities, Jacobs will develop 90% Design Documents. The 90% submittal will be essentially a final set of documents that will include the following drawings:

- 1) Cover Sheet/Index
- 2) Sheet Layout
- 3) General Notes & Symbols
- 4) Force main and Gravity Sewers (20 sheets)
- 5) Site Grading/Piping Plan (2 sheets)
- 6) Miscellaneous Piping & Civil Details
- 7) Mechanical
- 8) Piping and Instrumentation Diagram – Symbols and Designation Sheet
- 9) Piping and Instrumentation Diagram
- 10) Electrical Symbol Drawing
- 11) Electrical Site/Grounding Plan
- 12) Electrical One Line Drawing
- 13) Ladder Diagram and Field Wiring Diagram
- 14) Electrical Details (2 sheets)
- 15) Structural – Precast Structure Requirements
- 16) Structural – Generator and Equipment Pads

November 2, 2023

Subject: Northwest Regional Lift Station

The 90% documents will also include technical specifications and front-end contract documents. The technical specifications will be in CSI format and the front end bidding documents will be similar to what Jacobs has prepared on City projects following the 2018 EJCDC format.

**Task 3 – 90% Design Review Meeting.** After the 90% design documents (including an OPCC) have been submitted to the City for review, a meeting will be scheduled with City personnel to discuss the 90% design documents.

**Task 4 – Permits** Upon completion of the 90% plans and specifications, Jacobs will develop the application and the submittal package to Missouri Department of Natural Resources for a Construction Permit. Any permits needed for work in Missouri Department of Transportation right of way will be obtained after the project has been bid. Jacobs anticipates no other permits will be required for this project. We will also submit plans to the appropriate utilities for their review and approval.

### **Final Design Phase**

**Task 1 – Final Plans and Specifications.** Based on the accepted Preliminary Design documents, Jacobs will prepare for incorporation in the Contract Documents, final drawings (detailed to show the character and elements of the project to be constructed by the contractor on the project), and technical specifications. The Final Design (100% Design) technical specifications will be in CSI format. The front end construction contract bidding documents will be consistent with other City projects.

### **Bid Phase (changes from Logan street scope)**

Jacobs will provide the following bidding phase services:

- 1) Conduct a pre-bid meeting at City Hall.
- 2) Coordinate distribution of plans and specifications to prospective bidders and manage the plan holder's list.
- 3) Prepare and distribute any necessary addendums.
- 4) Assist the City in responding to questions from potential bidders during the Bid period and prepare addenda, as required.
- 5) Attend the bid opening. Review the bids and provide the City with a recommendation for award.

### **Construction Phase (changes from Logan street scope)**

Jacobs will provide Construction Phase Services, as described in the tasks below.

- 1) Pre-Construction Meeting. Jacobs will attend a pre-construction meeting with the City and the contractor selected for the project.
- 2) Shop drawing review for submittals during the construction period. Review detailed construction drawings and shop drawings, samples and other information submitted by

November 2, 2023  
 Subject: Northwest Regional Lift Station

Contractors, for conformance with the design concept and the concept of the information given in the Contract Documents. Such data will be recommended for approval, returned for revision, or rejected. This task includes the checking of shop and mill test reports of materials and equipment. Such review and recommendation shall not extend to means, methods, sequences, techniques or procedures of construction, or to safety precautions and programs incident thereto as such are the responsibility of the Construction Contractor. Scope includes up to two resubmittals of shop drawings.

- 3) Respond to the contractor’s RFIs (Request for Information). Scope includes responses of up to five RFIs.
- 4) Jacobs will provide the City assistance with change orders, assistance with payments to contractors, and assistance with grant reimbursements or loan requests.
- 5) **Scope and fee for RPR services is not included in this proposal and will be negotiated prior to bidding out the project.** A separate Construction Inspector will be provided by the City.
- 6) At a time near substantial completion of the work, assist the City in preparing and submitting to the Contractor a “punchlist” of items which require correction or completion.
- 7) Record Drawings and Certification of Construction Complete. Jacobs will provide record drawings for the project based on information provided by the contractor and the City Construction Inspector and recorded during construction. Jacobs will also certify construction is complete and in accordance with MDNR approved plans and specifications as required by MDNR.

**FEE PROPOSAL**

Our proposed fee the work described herein is lump sum cost of \$642,261. This fee includes only those services outlined in our proposal. Additional services can be provided if requested by the City. Jacobs will submit monthly invoices for compensation and expenses by electronic transmission. The City shall make payments to Jacobs in accordance with Section 8.960, RSMo.

Geotechnical	\$60,000
Topographical Survey	\$61,240
Detailed Design	\$411,742
Bid Phase Services	\$14,955
Construction Phase Services (Non-RPR)	\$90,424
Direct Costs - Travel	\$1,400
Direct Costs - Printing	\$2,500
<b>Total Lump Sum Cost</b>	<b>\$642,261</b>

November 2, 2023  
Subject: Northwest Regional Lift Station

## SCHEDULE

Jacobs will complete the services in this proposal in accordance with the following:

Existing Conditions Survey	120 days
90% Design	270 days
100% Design	90 days
Bid Phase	90 days
Construction Contract Award through Construction Completion	365 days

## ASSUMPTIONS / CLARIFICATIONS:

This proposal is based on the following assumptions and clarifications:

1. Jacobs will refer to the City's standard specifications and details wherever appropriate.
2. Any fees required to obtain construction approval/permits from MDNR, MoDOT, or any other agency will be paid by the City.
3. Wetland delineation and mitigation services are not included.
4. Two full size hard copies of the plans and specifications will be provided to the City for the 90% review. Also, two full size sets of the Issued for Bid plans and specifications for each project will be provided to the City and MDNR (construction permit).
5. The only permits required for this project are MDNR construction permit and MODOT right of way
6. Jacobs will provide distribution of the plans and specifications to prospective bidders. Cost for reproduction and shipping of plans and specifications to prospective bidders is not included in the not to exceed cost, and will be charged to the prospective bidder.
7. RPR services will be negotiated prior to bidding the job based on the City's capacity to provide Construction Inspection services.
8. Two sets of record drawings and an electronic media device with both pdf and AutoCAD files will be provided to the City at the completion of the project. (Match to Logan street scope)

This work will be performed under the Professional Services Agreement dated October 5, 2020. If you have any questions, please let me know.

Thank you for the opportunity to continue our long standing support of the City.

November 2, 2023  
Subject: Northwest Regional Lift Station

Very truly yours,

**Tobin Lichti**  
Project Manager  
314.422.3336  
Tobin.Lichti@Jacobs.com

Authorization to Proceed:

**City of Moberly**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**Jacobs Engineering Group, Inc.**

By \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

# City of Moberly City Council Agenda Summary

Agenda Number: WS #15.  
 Department: Public Utilities  
 Date: November 6, 2023

**Agenda Item:** A Discussion Regarding A Proposal From Jacobs Engineering For Engineering Services For Logan Street Water Line Replacement SRF Project Engineering.

**Summary:** As part of the city’s water line replacement program, Jacobs Engineering has proposed to provide the associated engineering services necessary to complete the project and team with Moberly on this State Revolving Fund Project. This project is one of the named projects within the 2018 list of projects that are high priority and necessary for continued integrity of the water distribution system. This is authorization to proceed and engineering activities are expected to begin in 2024, allowing reimbursements from current grant projects to cover this engineering expense.

**Recommended Action:** Direct staff to develop a resolution for approval at the next regular Council meeting

**Fund Name:** Capital Improvement Plan (SRF)

**Account Number:** 301.112.5502

**Available Budget \$:**

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>Brubaker</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Correspondence	<input type="checkbox"/> Proposed Resolution			
<input checked="" type="checkbox"/> Proposal	<input type="checkbox"/> Attorney’s Report	<b>Council Member</b>		
<input type="checkbox"/> P/C Recommendation	<input type="checkbox"/> Petition	M__ S__ <b>Lucas</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>Jeffrey</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Citizen	<input type="checkbox"/> Legal Notice	M__ S__ <b>Kyser</b>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Consultant Report	<input type="checkbox"/> Other _____		Passed	Failed

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F +1.314.335.5141  
www.jacobs.com

November 2, 2023

Dana Ulmer  
Director of Utilities  
City of Moberly  
101 West Reed Street  
Moberly, MO 65270

**Subject: Logan Street Water Main Replacement**

Dear Dana:

Jacobs Engineering Group, Inc. (Jacobs) is pleased to present our proposal to provide the City of Moberly (City) with Professional Engineering Services to design the Logan Street Water Main Replacement. The water mains to be replaced in the project are old cast iron mains that break frequently and have reduced capacity, likely due to tuberculation. System testing demonstrated that some of water main segments included in the project failed to achieve necessary minimum flow rates during testing performed in 2017. Approximately 14,600 feet of water mains will be replaced with new 6-inch and 8-inch PVC water mains.

## SCOPE

### Project Kick-Off Meeting

Jacobs will meet with City to discuss project goals and expectations.

### Existing Conditions Survey

Conduct a property and topographic survey along the proposed water main, including the determination of horizontal and vertical control to be utilized throughout the project.

- 1) Field run topographic survey. Topography includes ground elevations and existing physical improvements within the survey areas. Survey includes location of all building, structures and other physical improvements located within the survey area.
- 2) Contact Missouri-One-Call to provide the locations of existing utilities within the project limits. The locations of utilities within the project limits shall be field surveyed and incorporated into the base drawings for the project. After utilities have been marked, Jacobs will make site visit to verify final alignment for development of 90% design documents.

November 2, 2023

- 3) Dry utility locations for electric, telephone/cable and gas include surface indications of visible utilities, including manholes, poles, vaults, transformers and pedestals. Subsurface utility markings (established by Missouri One-Call) will be field located and shown on the topographic survey base drawings.
- 4) Wet utilities include water lines, sanitary sewer and storm sewer with inverts of pipe, pipe size with percent of slope for each sewer run shown. Wet utility locations include all surface indication including valves, vaults and fire hydrants.
- 5) Contour intervals will be 1-foot.

### Environmental Review

Conduct Environmental review, including:

- 1) Obtaining clearance letters from:
  - a) Army Corps of Engineers
  - b) Department of Natural Resources, Historic Preservation (does not include cultural resource survey, if required)
  - c) Department of Conservation
  - d) United States Fish and Wildlife
  - e) Department of Natural Resources, Geological Survey
  - f) Federal Assistance Clearinghouse
  - g) Division of State Parks
- 2) Prepare Environmental Information Document
- 3) Hold a public meeting or hearing on the Environmental Information Document.

### Detail Design

**Task 1 –Design Kick-Off Meeting (30% alignment review).** Jacobs will meet with City staff for review preliminary alignment.

**Task 2 - Develop 90% Design Documents.** Jacobs will develop 90% Design Documents. The 90% submittal will be essentially a final set of documents that will include the following drawings:

- 1) Cover Sheet/Index
- 2) Sheet Layout
- 3) General Notes & Symbols
- 4) Water Main Plan & Profiles (20 sheets)
- 5) Detail Sheet

The 90% documents will also include technical specifications and front-end contract documents. The technical specifications will be in CSI format and the front-end bidding documents will be similar to what Jacobs has prepared on City projects following the EJCDC format. Jacobs intends to refer to the City's standard specifications and details in lieu of developing project specific details and water main related technical specifications.

November 2, 2023

**Task 3 – 90% Design Remote Review Meeting.** After the 90% design documents (including an OPCC) have been submitted to the City for review, a remote meeting will be scheduled with City personnel to discuss the 90% design documents.

**Task 4 – Permits.** Upon completion of the final plans and specifications in Task 3, Jacobs will develop the application and the submittal package to Missouri Department of Natural Resources for a financial review and Construction Permit. Jacobs anticipates no other permits will be required for this project. We will also submit plans to the appropriate utilities for their review and approval.

**Task 5 – Final Plans and Specifications.** Based on the comments from the review meeting in Task 3 and the permit reviews in Task 4, final plans and specifications will be developed and issued to the City for Bid.

**Task 6 - Bid Phase Services.** Jacobs will provide the following bidding phase services:

- 1) Conduct a pre-bid meeting at City Hall if necessary.
- 2) Coordinate distribution of plans and specifications to prospective bidders and manage the plan holder's list.
- 3) Prepare and distribute any necessary addendums.
- 4) Assist the City in responding to questions from potential bidders during the Bid period and prepare addenda, as required.
- 5) Attend the bid opening. Review the bids and provide the City with a recommendation for award.

**Task 7 - Construction Phase Services.**

Jacobs will provide Construction Phase Services, as described in the tasks below.

- 1) Pre-Construction Meeting. Jacobs will attend a pre-construction meeting with the City and the contractor selected for the project.
- 2) Shop drawing review for submittals during the construction period. Review detailed construction drawings and shop drawings, samples and other information submitted by Contractors, for conformance with the design concept and the concept of the information given in the Contract Documents. Such data will be recommended for approval, returned for revision, or rejected. This task includes the checking of shop and mill test reports of materials and equipment. Such review and recommendation shall not extend to means, methods, sequences, techniques or procedures of construction, or to safety precautions and programs incident thereto as such are the responsibility of the Construction Contractor.
- 3) Respond to the contractor's RFIs (Request for Information). Scope includes responses of up to 5 RFIs.
- 4) Jacobs will provide the City assistance with change orders, assistance with payments to contractors, and assistance with grant reimbursements or loan requests.
- 5) **Scope and fee for RPR services is not included in this proposal and will be negotiated prior to bidding out the project.** A separate Construction Inspector will be provided by the City.

November 2, 2023

- 6) At a time near substantial completion of the work, assist the City in preparing and submitting to the Contractor a "punchlist" of items which require correction or completion.
- 7) Record Drawings and Certification of Construction Complete. Jacobs will provide record drawings for the project based on information provided by the contractor and recorded during construction. Jacobs will also certify construction is complete and in accordance with MDNR approved plans and specifications as required by MDNR.

## FEE PROPOSAL

Our proposed fee for the work described herein is a lump sum cost of \$499,916. This fee includes only those services outlined in our proposal. Additional services can be provided if requested by the City. The City shall make payment to the engineer in accordance with 8.960, RSMo.

Existing Conditions Survey	\$51,110
Environmental Review	\$25,750
Detail Design Services	\$347,680
Bid Phase Services	\$11,990
Construction Phase Services	\$59,485
Direct Costs - Travel	\$1,400
Direct Costs - Printing	\$2,500
<b>Lump Sum Cost</b>	<b>\$499,916</b>

## SCHEDULE

Jacobs will complete the services in this proposal in accordance with the following:

Existing Conditions Survey	90 days
90% Design	180 days
100% Design	60 days
Bid Phase	90 days
Construction Contract Award through Construction Completion	365 days

November 2, 2023

## ASSUMPTIONS / CLARIFICATIONS:

This proposal is based on the following assumptions and clarifications:

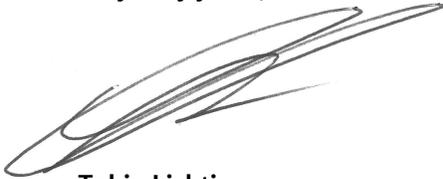
1. The ENGINEER agrees to take steps to ensure that disadvantaged business enterprises (DBEs) are utilized when possible as sources of supplies, equipment, construction, and services in accordance with the Drinking Water SRF Loan Program rules, as required by the award conditions of US EPA's Assistance Agreement with Missouri Department of Natural Resources. The ENGINEER acknowledges that the fair share percentages are 10 percent for MBEs and 5 percent for WBEs
2. Jacobs will refer to the City's standard specifications and details wherever appropriate.
3. Pre-Design memorandums will not be prepared for the water main projects as the sizing is based on existing model recommendations and the routes have already been determined.
4. Wetland delineation and mitigation services are not included.
5. Cultural Resource Survey that may be required for environmental sign-offs is not included.
6. Two full size hard copies of the plans and specifications will be provided to the City the 90% review.
7. Four stamped hardcopies of plans and specifications and all change orders will be submitted to the department for approval.
8. Jacobs will provide distribution of the plans and specifications to prospective bidders. Cost for reproduction and shipping of plans and specifications to prospective bidders is not included in the lump sum cost, and will be charged to the prospective bidder.
9. RPR services will be negotiated prior to bidding the job based on the City's capacity to provide Construction Inspection services.
10. Two sets of record drawings and an electronic media device with both pdf and AutoCAD files will be provided to the City at the completion of the project.
11. All work will be done in existing street right of way, no easements are needed.

This work will be performed as a modification to our existing contract with the City of Moberly, dated October 5, 2020. If you have any questions, please let me know.

Thank you for the opportunity to continue our long standing support of the City.

November 2, 2023

Very truly yours,



**Tobin Lichti**  
Project Manager  
314.422.3336  
Tobin.Lichti@Jacobs.com

Authorization to Proceed:

**City of Moberly**

**Jacobs Engineering Group, Inc.**

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

Date \_\_\_\_\_